

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1309 OF 2018

Rajabhau s/o. Shriram Phad,
Age 40 years, Occu. Business &
Social Work, R/o. Kanherwadi,
Tq. Parali-Vaijnath, Dist. Beed.

....Petitioner.

Versus

1. The State of Maharashtra,
Through Principal Secretary,
Department of Home Affairs,
Mantralaya, Mumbai-32.
2. The District Superintendent of Police,
Beed, Tq. and District Beed.
3. The Deputy Superintendent of Police,
Ambajogai, Tq. Ambajogai,
District Beed.
4. Police Inspector,
Police Station, Bardapur,
Tq. Ambajogai, Dist. Beed.
5. Dhananjay s/o. Panditrao Munde,
Age 45 years, Occu. MLC & Chairman
of proposed Jagmitra Sugar Mills Pvt.
Limited, R/o. Nathra, Post Kouthali,
Tq. Parli-Vaijnath, Dist. Beed.
6. Mrs. Rajashri w/o. Dhananjay Munde,
Age 40 years, Occu. Business and
Household, R/o. As above.
7. Mrs. Prema w/o. Purushottam Kendre,
Age 42 years, Occu. Agri. & Household,
R/o. Ambajogai, Tq. Ambajogai,
District Beed.
8. Walmik s/o. Baburao Karad,
Age 45 years, Occu. Agriculture,
R/o. Pangri, Tq. Parli Vaijnath,

District Beed.

9. Suryabhan s/o. Hanmantrao Munde,
Age 45 years, Occu. Agriculturist,
R/o. Talegaon (P), Tq. Parli Vaijnath,
District Beed.
10. Chandrakant s/o. Ranjit Giri,
Age 75 years, Occu. Agriculturist,
R/o. Dattapur, Tq. Ambajogai,
District Beed.
At present Nath Knagr, Ausa,
Tq. Ausa, District Latur.
11. Dnyanoba s/o. Sitaram Koli,
(Died somewhere in 1985)
12. Govind s/o. Sitaram Koli,
Age 55 years, Occu. Agriculturist,
R/o. As above.
13. Babu s/o. Sitaram Koli,
Age 55 years, Occu. Agriculturist,
R/o. As above.
14. Uddhav s/o. Kachru Sawant,
Age 50 years, Occu. Agriculturist,
R/o. As above.
15. Manik s/o. Tukaram Bhalerao,
Age 45 years, Occu. & R/o As above.
16. Vitthalrao s/o. Ganpatrao Deshmukh,
Age 50 years, Occu. & R/o As above.
17. Dhondiram s/o. Anna Chavan,
Age 55 years, Occu. & R/o As above.
18. Digambar s/o. Vasantrao Pawar,
Age 40 years, Occu. & R/o As above.

(Respondent Nos. 5 to 18 are deleted
as per Court order dated 10.6.2019)

....Respondents.

Mr. V.D. Sapkal, Advocate for petitioner.

Mr. D.R. Kale, APP for respondent Nos. 1 to 4.

Mr. S.S. Thombre, Advocate for respondent Nos. 5 to 18.

**CORAM : T.V. NALAWADE AND
K.K. SONAWANE, JJ.**
DATED : 10/06/2019.

ORAL JUDGMENT :

1) The learned counsel Shri. S.S. Thombre submits that he has instruction to file appearance for respondent No. 5 Dhananjay Munde and others, learned counsel Shri. V.D. Sapkal for petitioner submits that he wants to delete respondent Nos. 5 to 18. It is up to the petitioner to take such decision. The petitioner may delete respondent Nos. 5 to 18 at his own risk. Amendment is to be carried out immediately.

2) Learned counsel Shri. Thombre submitted that he wants to file intervention application on behalf of respondent No. 5 Dhananjay Munde and others. When the petitioner preferred to delete these respondents, this Court felt it not necessary to adjourn the matter. There is no need for giving opportunity to Dhananjay Munde to file intervention application in view of nature of reliefs claimed.

3) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

4) The petition is filed for giving direction to respondent Nos. 1 and 2 to register the crime on the basis of complaint dated 23.10.2017 addressed to respondent No. 4 to investigate the matter. The submissions made and the record show that land Survey No. 25 (Old) which is now bearing Gat No. 34, admeasuring 17 Acres 24 Gunta and land Survey No. 24 (Old) which is now bearing Gat No. 35, admeasuring 44 Acres 20 Gunta situated at village Pus, Taluka Ambajogai, District Beed belong to Government and they were given to Belkandi Buwa Math (Sansthan), village Pus, Tahsil Ambajogai as Khidmat Inam for Math. At the relevant time, one Ranjit Vyanka Giri was the head of the Math. After the death of Ranjit Giri, his successors, when they are not owners, got entered their names as owners of these lands and some transactions of sale are shown to be made by them. Initially the transactions of agreements of lease were made for giving the lands for cultivation, but subsequently, the lands were sold by out and out sales. Allegations are made that by creation of false revenue record like false mutation, by joining hands with revenue authority and then by selling the Government property, the Government property is grabbed. It was submitted that now the property is converted for non agricultural use and that will be used for starting private sugar factory, but as yet no sugar factory is installed on these lands.

5) The aforesaid complaint was given by petitioner Rajabhau Phad. It was submitted that Rajabhau Phad was involved in the formation of aforesaid Jagmitra Sugar Factory and so, he knows about these transactions and so, he is interested in the matter.

6) The learned APP submitted that after making some inquiry, the police have realised that the Government land is being grabbed by creating false revenue record and by showing some transactions. Even when such opinion is formed by investigating agency, the complaint given to P.I. of Bardapur Police Station, Tahsil Ambajogai is not treated as F.I.R. and crime is not registered. There is the revenue record (copies) produced to show that the land belongs to the Government. Purchaser could have seen the revenue record and particularly illegal mutation. Such incidents are increasing day by day. When atleast after inquiry police realise that the Government property is being grabbed by using the aforesaid modus operandi, it was necessary for the police to register the crime. In view of directions given by the Apex Court in the case reported as **2013 ALL MR (Cri) 4444 (SC) [Lalita Kumari Vs. Govt. of U.P. & Ors.]**, this Court holds that crime ought to have been registered and such direction needs to be given by this Court

to respondents to register the crime in Bardapur Police Station.

7) In the result, the petition is allowed. Direction is hereby given to register the crime on the basis of complaint dated 23.10.2017 given by the petitioner to Bardapur Police Station for the offences punishable under section 420 of I.P.C., for forgery and other offences which investigating agency may find to have been committed. Rule is made absolute in those terms.

[K.K. SONAWANE, J.]

[T.V. NALAWADE, J.]

ssc/