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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO.117 OF 2015

Tushar S/o Babasaheb Auti,
Age:28 years, Occ: Social Worker & Agriculture,
R/o: At Post Parner, Tq.Parner,
Dist. Ahmednagar

..PETITIONER

VERSUS

1. Union of India,
Through, the Principal Secretary,
Ministry of Environment and Forests,
Paryavaran Bhavan, CGO Complex,
New Delhi - 110 003
2. The State of Maharashtra,
Through Chief Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai
3. The Commissioner,
Commissioner office at Nashik,
Nashik Road, Tq. & Dist. Nashik
4. The Collector,
Collector Office, Ahmednagar,
Tq.Ahmednagar, Dist. Ahmednagar
5. The Deputy Forest Conservator,
Ahmednagar Forest Division,
"Vanbhavan", Nagar-Aurangabad Road,
Tq. & Dist. Ahmednagar 414 001.
6. Tahsildar,
Tahasil Office, Parner,
Tq.Parner, Dist.Ahmednagar
7. The Sub Registrar,
The registrars' Office, Parner,
Tq. Parner, Dist.Ahmednagar

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8. P.G.K.Consultants Pvt. Ltd.,
204, Guru Ganesh Complex,
Near Old Vasant Talkies, Ahmednagar
9. Shakil Babubhai Shaikh
Age: 38 years, Occu: Director of
P.G.K. Consultants Pvt. Ltd.,
R/o: Supa, Tq. Parner,
Dist. Ahmednagar
10. Firoj Hasan Raje,
Age: 22 Years; Occu: Director of
P.G.K. Consultants Pvt. Ltd.
R/o Parner, Tq. Parner, Dist. Ahmednagar
11. Medens Industries Pvt. Ltd.,
Address: A/P Parner, Tq.Parner,
Dist.Ahmednagar
12. Mujahid Rafiq Sayyad,
Age: 28 years, Occu: Director of
Medens Industries Pvt. Ltd,
R/o: Parner, Tq. Parner,
Dist.: Ahmednagar 414302
13. Ansar Ahmed Sayyed,
Age: 28 years, Occu.: Director of
Medens Industries Pvt. Ltd.,
R/o Parner, Tq. Parner,
Dist. Ahmednagar 414302
14. Anand Agronomics Pvt. Ltd.,
936, Supa, Parner, Dist. Ahmednagar
15. Shakil Babubhai Shaikh,
Age: 38 years, Occu. Director
of Anand Agronomics Pvt. Ltd.,
R/o Supa, Tq. Parner,
Dist. Ahmednagar

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16. Mujahid Rafiq Sayyad,
Age: 28 years, Occu: Director
of Anand Agronomics Pvt. Ltd.,
R/o Parner, Tq. Parner,
Dist. Ahmednagar 414302
17. Raje Agronomics Pvt. Ltd.,
Address: 2128/3/11, Parner,
Tq. Parner, Dist. Ahmednagar.
18. Firoj Hasan Raje,
Age: 22 Years, Occu. Director
of Raje Agronomics Pvt. Ltd.,
R/o Parner, Tq. Parner,
Dist. Ahmednagar 414302
19. Ansar Ahmed Sayyed,
Age: 37 years, Occu: Director of
Raje Agronomics Pvt. Ltd.,
R/o Parner, Tq. Parner,
Dist. Ahmednagar 414302

...RESPONDENTS

Mr A. G. Ambetkar, Advocate for petitioner;
Mr S. B. Deshpande, ASGI for respondent No.1;
Mrs M. A. Deshpande, A.G.P. for respondent Nos.2 to 7;
Mr S. P. Salgar, Advocate holding for Mr N. V. Gaware, Advocate for
respondent Nos.8 to 10

**CORAM : PRASANNA B. VARALE
AND
AVINASH G. GHAROTE, JJ.**

DATE : 4th October, 2019

ORAL ORDER:

The present public interest litigation is filed on a premise that the piece of land from Gut No.522 is a forest land and the said land is purchased by respondent Nos.8, 11, 14 and 17, who are the private

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limited companies and though the land is purchased for industrial purpose, the intention of these private limited companies is to utilise these lands for the other purposes.

2. Notice was issued to the respondents by this Court on 3rd December, 2015. Along with the petition, a copy of one of the sale deeds is placed on record. The piece of land referred to in the sale deed, placed on record at Exh.'B', is purchased by P.G.K. Consultants Pvt. Ltd. Co. i.e. respondent No.8 in the present petition.

3. In response to the notice, the affidavit-in-replies are filed on behalf of respondent Nos.8 to 10 on 26th January, 2016 and on behalf of respondent Nos.3, 4 and 6 on 22nd February, 2016, respectively. In the affidavit-in-reply filed on behalf of respondent Nos.8 to 10, it is submitted before this Court that the petitioner has personal interest and this is not a public interest litigation by any stretch of imagination. It would be necessary to refer to certain submissions made in para 9 of the said affidavit-in-reply, which reads thus:

"..... I say that, vide the said agreement to sale land bearing gut no.522/10 to the extent of 4 H. 5 R. was sought to be purchased on certain terms and conditions. I say that, it would not be out of place to mention here that the petitioner himself was witness to said registered document

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and it is precisely because petitioner has acted as a mediator for sale transaction. Hereto annexed and marked as EXHIBIT "R-4" is the copy of registered agreement to sale dated 7.2.2013 executed in favour of Shankar Ananda Bochade." **(Emphasis supplied).**

4. Page No.366 of the petition shows that the petitioner is witness No.1 in the transaction in relation to the piece of land in Gut No.522/10.

5. It is claimed in the petition that the land is a forest land and it ought not to have been purchased by a private party or any private limited companies. There is a contra document placed on record as an annexure to the affidavit-in-reply. This document is a communication dated 15th march, 2012, forwarded to one Shri Ashok Vinayak Gaikwad from the office of the Deputy Range Forest Officer, Ahmednagar. Perusal of this document shows that it was informed to Mr Gaikwad, who had submitted an application to the authority, that as per the record available with the Forest Department, the entire area to the extent of 433 acres 16 gunthas of Gut No.522 (Old Survey No.132) is declared as a deforest land and reference is also made to the Government notification. The petitioner has placed on record a communication of the very date i.e. 15th March, 2012, addressed to the

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very person i.e. Shri. Ashok Vinayak Gaikwad and this communication states that from the land Gut No.522, area to the extent of 433 acres 16 gunthas is declared as reserved forest land and there is no deforestation.

6. Thus, there are two contrary documents placed on record, one by the petitioner and another by the respondents. Learned Counsel for the petitioner heavily relied on the document at Exh.'A' at page 26 of the petition. This Court cannot undertake an exercise of verification of the authenticity of these documents. The documents placed on record display totally contradictory statements. Apart from this, the documents placed on record along with the affidavit-in-reply filed on behalf of respondent Nos.8 to 10 at Exh."R-3" collectively, i.e the communication dated 22th October, 2012 addressed to the Deputy Range Forest Officer, Ahmednagar by the Additional Collector, Ahmednagar refers to the fact that as per the record available under the order dated 19th May, 1966, the area of Gut No.522/42 and 522/43 (Old Survey No.132), the entire area was deleted from the forest land and there was no formal notification. The communication dated 5th November, 2012 addressed by the Deputy Range Forest Officer to the Collector Ahmednagar reiterates the position that by an order dated 19th May, 1966, the entire area land Gut No.522/43 and 522/43 is

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deleted from the forest area. The contention of the petitioner that the land was a forest land and the respondent Nos.8 to 10 i.e. private limited companies have purchased the forest land for an oblique motive, cannot be accepted in view of the above referred documents.

7. In the affidavit-in-reply filed on behalf of respondent Nos.3, 4 and 6 through the Tahsildar, Parner, it is stated that "The respondent Nos.8 to 19 have not purchased the land more than 10 hectares as per Section 63 (1) (a) of Bombay Tenancy and Agricultural Land Act 1948 and hence permission is not required from the Industry, Energy and Labour Department. Companies have purchased the land for bona fide industrial use. The respondent companies have not purchased the land for establishment of township or tourism". The fact remains that these affidavit-in-replies are filed in the year 2016 and till date, there is no rejoinder filed by the petitioner either denying the statement in these affidavit-in-replies or taking a stand otherwise, to submit that no personal interest is involved in the petition.

8. Mr Ambetkar, learned Counsel appearing on behalf of the petitioner prays for time, for the simple reason that the petitioner had filed the present public interest litigation in the year 2015 and despite receiving the replies of the respective respondents way back in the year

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2016, no attempt was made to file any rejoinder and now by change of Counsel, a request is made for an adjournment we are unable to accept the request. The learned Counsel for the petitioner also submitted before this Court that as respondent No.8 is not served, he be granted some time. This statement is not in consonance with the record. As stated above, respondent No.8 has filed his affidavit-in-reply way back in the year 2016.

9. Considering all the above referred reasons, we are of the opinion that the present public interest litigation deserves to be dismissed on two counts. Firstly, the petitioner had an active interest in the litigation and secondly, the petition is devoid of any merit. Thus, on both these counts, the present public interest litigation is dismissed.

(AVINASH G. GHAROTE, J.)

(PRASANNA B. VARALE, J.)

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