

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.865 OF 2016
(Jyotiram s/o Saudagar Kachare Vs. Sojarabai w/o Sakharam
Machale and others)

Mr.P.D.Suryawanshi., Advocate for the petitioner.
Mr.S.V.Gundre, Advocate for respondent Nos. 1 and 6.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 09/01/2019

PER COURT :

1. I have heard the learned Advocates for the respective sides and have gone through the petition paper book with their assistance. I have perused Rule 21 of the Hyderabad Tenancy Rules framed under the Hyderabad Tenancy and Agricultural Lands Act, 1950.

2. Issue is as to the identification of 7 acres of land with reference to which the deceased Saudagar was given a certificate u/s 38-E as a protected tenant. There is no dispute that the purchase price was decided and was deposited and Saudagar became the absolute owner of 7 acres land. This portion of the land is a part of the suit property admeasuring 31 acres of land. 67 R land is said to have been acquired by the Government in a public project. Saudagar is said to have sold 7 acres and 10 gunthas land to a third party who can not be identified by the learned Advocates. They however admit this

aspect. Thereafter Saudagar has again sold out 3 acres of land by creating plots.

3. The Trial Court has framed issue No.6 as :- Whether there is a specification of suit land held as "owner" and the suit land held as a "protected tenant" ?

4. The petitioner moved application Exh.56 in RCS No.590/2011 praying for referring Issue No.6 to the Tenancy Court. Apart from making such a prayer, there is no pleading to the extent that some portion of the suit land forms a dispute as regards tenancy rights. When all aspects pertaining to the certificate as a protected tenant having been issued to Saudagar who became an absolute owner of 7 acres of land are undisputed, there is no issue as regards tenancy to be decided.

5. In view of the above, I find that the Trial Court has not committed any error in rejecting Exh.56 by the impugned order dated 13/12/2015. The liberty granted to defendant No.2 in the last paragraph of the impugned order would resolve this issue.

6. This petition, being devoid of merit, is therefore, dismissed.

(Ravindra V.Ghuge, J.)