

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.14888 OF 2019

PRMILA DHONDIBA JADHAV AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr.A.N.Nagargoje h/f

Mr.Datta A. Madake

AGP for Respondent Nos.1 and 2 : Mr.N.T.Bhagat

...

CORAM : RAVINDRA V. GHUGE, J.

DATE : 18th December, 2019.

PER COURT :-

1. On 10/10/2019, I had passed the following order:-

"1 The petitioners are three biological married sisters and respondent nos.4 and 5 are their biological brothers. It is claimed that a portion of the ancestral land was acquired for a public project. Rs.1,62,54,685/ is the amount to be apportioned. In Special Darkhast No.11/2018, these three sisters

sought addition and adjudication as regards their rights to the shares in the acquired property and consequentially, the apportionment of the compensation amount as per the shares, which they can claim as being the biological sisters of two brothers.

2 I find from the impugned order that the Executing Court has rejected the application exhibit 12 filed by the petitioners by concluding that the Executing Court cannot decide the rights of the third parties, who appear in the execution proceedings and claim a share in the acquired property. It is noted that the Executing Court cannot deal with the dispute of deciding the right, title and interest of the third parties in the land, which has been acquired.

3 The learned advocate for the petitioners shall satisfy this Court as to :

(a) Whether, the Executing Court can exercise jurisdiction to the extent of permitting the addition of these three parties and proceed to decide the respective shares in the immovable

property visavis two brothers, in execution proceedings?

(b) Whether, the Executing Court can decide the above issue as if it is a Trial Court?

4 The learned advocate for the petitioners submits that he would research on the subject and address this Court with the aid of judicial pronouncements.

5 On his request, stand over to 18.12.2019 in the "passing orders" category."

2. I have heard the strenuous submissions of the learned Advocate for the petitioners. The following judgment lay down the law that there cannot be an intervention application in LAR proceedings and especially if such proceedings are pending under Section 18 of the Land Acquisition Act, 1894:-

Bhau Krishna Shinde deceased through L.Rs. Rakhmabai Bhau Shinde and others Vs. Vatsala Bhau Dhamale and others [2000(1) Mh.L.J.55]

3. In view of the above, I find that the Executing Court cannot exercise jurisdiction to the extent of permitting addition of parties in execution proceedings for deciding the right, title and interest of the third parties in the property, which has been acquired in an acquisition for a public project.

4. In view of the above, this petition, being devoid of merits, is therefore, dismissed.

5. Needless to state, as the learned Advocate for the petitioners submits that a civil suit is pending, obviously, the petitioners can exercise their rights as are enshrined under the Code of Civil Procedure, 1908.

(RAVINDRA V. GHUGE, J.)

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