

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1762 OF 2013

...
Riyaz Ahmed Noormohammed BagwanPetitioner
V/S
State of Maharashtra & ors.Respondents

...
Mr. Sandeep S. Salunkhe for the Petitioner.
Mr. P.N. Diwan, AGP for Respondent Nos.1 to 3/State.
Mr. Umesh R. Mankapure for Respondent No.4.

...
CORAM : A.A. SAYED &
SMT. ANUJA PRABHUDESSAI, JJ.
DATE : 29 NOVEMBER 2019.

ORDER:

1 The Petitioner has filed the above Petition seeking the following reliefs:

- “a) This Hon’ble Court be pleased to direct the Respondents to hand over the peaceful possession of the land bearing Gat No.283/A/2/1 admeasuring 31 R situated at Malkapur, Taluka Karad, District Satara to the Petitioner.
- b) This Hon’ble Court be pleased to direct the Respondent to pay the compensation for the said land bearing Gat No.283/A/2/1 admeasuring 31 R situated at Taluka Karad, District Satara at the present market rates to the Petitioner.”

2 In the Affidavit-in-Reply of the Respondent No.4-Nagar Panchayat it is pointed out that the subject road is in existence from more than 150 years.

3 There is no averment in the Petition as to when the said road has been constructed nor is any explanation by the Petitioner why the present Petition has been filed after decades of delay.

4 A 3-Judge Bench of the Supreme Court in the case of State of Maharashtra vs. Digamber, (1995) 4 SCC 683, has held in para 26 as follows:

“26. Thus, when the writ petitioner (respondent here) was guilty of laches or undue delay in approaching the High Court, the principle of laches or undue delay adverted to above, disentitled the writ petitioner (respondent here) for discretionary relief under Article 226 of the Constitution from the High Court, particularly, when virtually no attempt had been made by the writ petitioner to explain his blameworthy conduct of undue delay or laches. The High Court, therefore, was wholly wrong in granting relief in relation to inquiring into the allegation and granting compensation for his land alleged to have been used for scarcity relief road works in the year 1971-72. As seen from the judgment of the High Court, the allegation adverted to above, appears to be the common allegation in other 191 writ petitions where judgments are rendered by the High Court following the judgment under appeal and which are subject of SLPs in this Court that are yet to be registered. We have, therefore, no hesitation in holding that the High Court had gone wholly wrong in granting the relief which it has given in the judgment under appeal, and judgments rendered following the said judgment in other 191

writ petitions, said to be the subject of SLPs or otherwise. All the said judgments of the High Court, having regard to the fact that they were made in writ petitions with common allegation and seeking common relief, are liable to be interfered with and set aside in the interests of justice even though only learned counsel appearing for a few writ petitioners were heard by us.”

5 In view of the above, we dismiss the Petition only on the ground of delay and laches.

(SMT. ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)

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