

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 460 OF 2019

Manmohan Gopiram.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Sujay Kantawala, Aishwarya Kantawala I/b Durgaprasad Poojari for the Petitioner.

Mrs. M. P. Thakur, AGP for the Respondent-State.

Mr. Chintan Shah I/b S. D. Patil for Respondent No. 4.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **January 22, 2019.**

P. C. :

1. The petition is filed for the following reliefs :

"a. this Hon'ble Court may be pleased expound the scope of Section 300 and Section 150(3), 150(4), 150(5) of Maharashtra Land Revenue Code, 1966 to save it from being unconstitutional on the vice of Article 14 and 21 of the Constitution of India so as to limit its meaning to a dispute / difference between the contracting parties alone.

b. this Hon'ble Court may be pleased to read down the terms "dispute" in Section 300 and Section 150(3), 150(4), 150(5) of Maharashtra Land Revenue Code, 1966 so as to limit its meaning to a dispute / difference between the contracting parties alone.

c. to issue an appropriate writ or order or direction, quashing and setting aside the impugned communication at Exhibit-C.

d. to issue a writ of mandamus, or other writ or order in the nature of mandamus, directing / commanding Respondent No. 3 to cause mutation in the land records by getting the name of the Petitioner on record in place of the

vendor.

e. to issue a writ of mandamus, or other writ or order in the nature of mandamus, refraining / restraining Respondent No. 2 or any other investigation agency from attaching the said land."

2. The Petitioner has purchased the land bearing Gat No. 304/3 and 304/4 respectively admeasuring 1-hectare 42-are and 1-hectare 41-are at village Deoghar, taluka Mulshi, district Pune from one Pankaj Bhujbal. The transaction was effected by registered conveyance deed dated 4th October 2016. Thereafter the Petitioner approached the Circle Officer of Male, taluka Mulshi, district Pune for effecting mutation entry about this transaction. However, by the letter dated 7th July 2017, the Petitioner was informed that there is FIR registered against the vendor for the offence punishable under sections 13(1)(e) read with 13(2) of the Prevention of Corruption Act, 1988 and section 109 of the Indian Penal Code, 1860 and the enquiry against the said vendor is in progress by the Enforcement Directorate. The said communication further shows that there is possibility that the said land would be attached at future point of time and therefore the Circle Officer has refused to effect the mutation entry.

3. Mr. Kantawala, learned counsel for the Petitioner at the outset submitted that at the relevant time, i.e., in the month of

October 2016, the subject property was not attached either by the Anti Corruption Bureau or Enforcement Directorate. This statement is not disputed by Mr. D. B. Awari, ACP, Anti-Corruption Bureau, Mumbai, who is present in the Court to give instructions to learned AGP. Mr. Kantawala, the learned counsel for the Petitioner states that the said property as on today also not attached by any agency. Statement accepted.

4. In our considered view, in the absence of attachment of the subject land before the transaction in question, the Circle Officer cannot refuse to record the mutation entry of the transaction between the Petitioner and said Pankaj Bhujbal especially when the Petitioner seems to be bonafide purchaser of the said property for valuable consideration.

5. In the light of above facts, we are inclined to direct the concerned Circle Officer of taluka Mulshi, district Pune to effect the mutation entry in respect of the transaction dated 4th October 2016 between the Petitioner and said Pankaj Bhujbal.

6. In above circumstances, Mr. Kantawala submitted that

the Petitioner is not interested to press the reliefs claimed in prayer clauses (a) and (b). We accordingly allow the petition in terms of prayer clause (d). Consequently, we direct the concerned Circle Officer – Respondent No.3 to cause the mutation of entry in respect of the subject transaction dated 4th October 2016 between the Petitioner and said vendor Pankaj Bhujbal, as expeditiously as possible and preferably within the period of four weeks from the date of receipt of a copy of this order. All concerned to act on a copy of the order duly authenticated by the Registry of this Court.

7. Petition stands disposed of.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]