

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.2093 OF 2015

Eknath Chimaji Jagtap and Anr.

...Petitioners

vs.

The State of Maharashtra and Ors.

...Respondents

Mr. Subhash Jha a/w Sanjana i/b Law Global for the Petitioners.

Mr. K. V. Saste, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
SMT. S. S. JADHAV, JJ.**

DATE : 22/11/2019.

PC.:

. Heard learned counsel for the petitioner. Perused a copy of order of Divisional Commissioner at Exhibit 'B' dated 10/5/1991, the letter issued by office of Additional Commissioner to one Hiranjan Jagtap on 20/4/2007, letter dated 22/11/2010 issued by said office to one Mukesh Gada.

2. Submission is under the provisions of the Bombay Inferior Village Watans Abolition Act, 1958 the Divisional Commissioner can not pass orders like one at Exhibit 'B' and 'C'. The petitioners attempted to obtain information. They learnt that office of Divisional Commissioner has not passed any such orders. Learned counsel states that in this situation, order at Exhibit 'B' being void cannot be acted upon and investigation into grievance made by the petitioners is therefore necessary.

3. During hearing we find that the challenge to said order came before learned Single Judge of this Court in Writ Petition No.9157/2010

and learned Single Judge dismissed the petition on 23/6/2011.

4. After this order Letters Patent Appeal was filed before Division Bench vide 195/2011 and LPA has been dismissed on 8/8/2011.

5. Thus grievance about order at Exhibit 'B' dated 10/5/1991 being fabricated was not made either before learned Single Judge or in Letter Patent Appeal.

6. It appears that vide Exhibit 'D' dated 20/4/2007 and Exhibit 'I' dated 22/11/2010 Hiranman Jagtap and Mukesh Gada already had information about office of Divisional Commissioner, Pune not passing such order.

7. Communication dated 20/4/2007 Exhibit 'D' informs Hiranman that order of regularization in respect of breaches of conditions are not issued by office of Divisional Commissioner but those orders are passed by the Office of District Collector. The other communication dated 22/11/2010 informs Mukesh Gada how papers in relation to order dated 10/5/1991 are not available and therefore application seeking information and copy of order and roznama was disposed of.

8. Perusal of order dated 10/5/1991 at Exhibit 'B' shows that therefore the document is issued by Divisional Commissioner of Pune and it is subject to transaction of transfer of land. The said order also takes note of applicability of Urban Land Ceiling Act and report of Collector about contravention thereof. This document does not mention names of parties and it is more in the nature of letter sent by office of Divisional Commissioner with copy of it to one Namdev Jagtap.

9. The order of this Court dated 23/6/2011 while narrating fact mentions that power of attorney has dealt with land without obtaining prior permission of Collector and without furnishing Nazrana under section 5(3) of the above Act. It also mentions that the petitioner then tried to locate authority given to said Papat Mulay and there, there is reference to order dated 10/5/1991 allegedly regularizing these transactions on payment of Nazrana.

10. Learned counsel for the petitioner has submitted that when order at Exhibit 'B' does not exists, all further proceedings are rendered void and the petitioner could request for investigation in the present matter.

11. The petitioner claims to be a law student and has filed present petition without pointing out how he is affected thereby.

12. In this situation, we are not inclined to intervene in writ jurisdiction. We keep all contentions of the Petitioner open and dispose of the petition.

(SMT. S. S. JADHAV, J.)

(B. P. DHARMADHIKARI, J.)