IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10759 OF 2018

Smt. Lakshmibai Mahadu Raut & Anr. …..Petitioners.

Vs.

M/s. Erectus Reality LLP & Ors. …..Respondents.

Mr. Y.B. Lengare for the Petitioners.
Mr. Tejas Dande I/by Tejas Dande & Associates for the Respondent Nos. 1 and 2.
Smt. M.S. Bane AGP for the Respondent Nos. 3 to 8-State.

CORAM : A. S. GADKARI, J.
DATE : 18th JUNE, 2019.

P.C.:-

The present Petition under Article 227 of the Constitution of India is directed against the concurrent findings recorded by the Revenue Authorities below.

2 Heard the learned counsel for the Petitioners, the learned counsel for the Respondent Nos. 1 and 2 and the learned AGP for the Respondent Nos. 3 to 8.

3 The Petitioner No. 1 is the wife and the Petitioner No. 2 is the son of late Mahadu Ramchandra Raut. The said Mahadu Raut along with Petitioner No. 2 Dilip Raut executed Development

Agreement dated 14th January, 2008 and an Irrevocable Power of Attorney dated 14th January, 2008 in favour of Respondent No.2 i.e. M/s. Edifice Properties Private Limited represented by its Director Shri Nilesh Kanade, pertaining to a piece and parcel of land bearing Survey No. 8 admeasuring 1 hectare 67 ares, at Village Mamurdi, Taluka Haveli, District Pune and more particularly lying and situate within the jurisdiction of Pimpari-Chinchwad Municipal Corporation, for its development and/or for other related purposes, which have been more specifically enumerated in the said indentures.

In pursuance of the said Development Agreement and Irrevocable Power of Attorney, the Respondent No.2 further transferred its rights and interest in favour of the Respondent No. 1 i.e. M/s. Erectus Reality LLP, by a registered Sale-Deed dated 17th January, 2015. A Mutation entry bearing No. 5536 has been effected by the Talathi of the Village Mamurdi, Taluka Haveli, District Pune, thereby mutating the name of the Respondent No. 1, in Revenue records.

4 The said Mutation entry No. 5536 was objected by the Petitioner No.2 by filing an Application No. SR 12 of 2015 before the Circle Officer, Chinchwad, Taluka Haveli, District Pune i.e.

Respondent No.8 herein. The Circle Officer by its well reasoned Order dated 25th May, 2015 rejected the said Application of the Petitioner No.2 and upheld the certification of Mutation entry No. 5536. The contention of the Petitioners that, they had not granted rights to the Respondent No. 2 to further transfer the property in favour of the Respondent No.1 and there is breach of terms of Agreement has not been accepted by the Respondent No.8.

By a subsequent Order dated 23rd September, 2015, the Respondent No. 8, effected correction in its earlier Order dated 25th May, 2015 and held that, the Mutation entry No. 5536 is restricted to the part of land belonging to the Petitioners sold by them.

5 Feeling aggrieved by the correction Order dated 23rd September, 2015, the Respondent No.1 preferred Appeal No. Admission/SR/920 of 2015 under Section 247 of the Maharashtra Land Revenue Code, 1966 (for short, “the MLRC”) before the Sub-Divisional Officer, Haveli Sub-Division Pune i.e. Respondent No.6 herein. The Respondent No.6, after hearing the parties and after perusing the record, by its Order dated 29th February, 2016 was pleased to set aside the Order dated 23rd September, 2015 and confirmed the Order dated 25th May, 2015 passed by the Respondent

No. 8.

6 The Petitioners, being aggrieved by the said Order dated 29th February, 2016 passed by the Respondent No.6, preferred further Appeal under Section 247 of the MLRC bearing No. RTS/APPEAL/382/2016 before the Additional Collector, Pune i.e. the Respondent No.5 herein. The Respondent No.5 after perusing the entire record and hearing the parties to the said Appeal by its Order dated 14th October, 2016 was pleased to reject the said Appeal No. 382 of 2016 and *inter-alia* confirmed the Order dated 29th February, 2016 passed in Appeal bearing No. Admission/SR/920 of 2015 passed by Respondent No.6 herein.

7 The Petitioners, preferred further Appeal bearing No. RTS/REV/PUNE/343/2016 before the Divisional Commissioner, Pune Division, Pune i.e. the Respondent No.4 herein against the said Order dated 14th October, 2016. The Respondent No. 4 after perusing the entire record and hearing the parties to the said Appeal was pleased to reject the said Appeal and confirmed the Order dated 14th October, 2016 passed by the Additional Collector i.e. the Respondent No.5.

8 The Petitioner No.1 thereafter preferred a Revision Application No. RTS/3417/3900/C.No. 74/J-5 before the Hon'ble

Minister, Revenue and Public Works Department, Maharashtra State i.e. the Respondent No.3 herein under Section 257 of the MLRC.

The Respondent No.3, after scrutinizing the entire record of the present case was pleased to reject the said Revision Application and confirmed the Order dated 14th June, 2016 passed by the Divisional Commissioner i.e. Respondent No.4.

9 It is, thus, clear that, there is concurrent findings recorded by all the Revenue Authorities below.

The Supreme Court in the case of *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil, reported in (2010) 8 SCC 329* has enumerated the principles in the exercise of High Court's jurisdiction under Article 227 of the Constitution of India. It is held that, the High Courts cannot, at the drop of a hat, in exercise of its power under Article 227 of the Constitution, interfere with the Orders of tribunals or courts interior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases, where an alternative statutory mode of redressal has been provided, that would also operate as a restrain on the exercise of this power by the High Court. That, the High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

It is further held that, in exercise of its power of superintendence, the High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised. That, the power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

The afore-stated view expressed in the case of *Shalini S. Shetty (Supra)* has been further affirmed by the larger Bench of the Supreme Court in the case of *Radhey Shyam & Anr. Vs. Chhabi Nath and Ors. Reported in (2015) 5 SCC 423*.

10 A perusal of record annexed to the Petition would indicate that, after the Petitioner No.2 and his father Mahadu Raut executed Development Agreement and Irrevocable Power of Attorney dated 14th

January, 2008 in favour of the Respondent No.2 by accepting valuable consideration mentioned in the said agreement, they have no right or interest in the said property except for the benefits and/or agreed consideration mentioned in the said indentures. It is to be noted here that, in furtherance of Development Agreement and Irrevocable Power of Attorney, the Respondent No.2 was entitled to further transfer the said property and/or to give it for development to other entity which, the Respondent No.2 in fact did and transferred its rights in the said property in favour of Respondent No.1 by a registered Sale-Deed dated 7th January, 2015. In view of the transfer in favour of the Respondent No.1, the Mutation entry No. 5536 has been rightly effected by the Revenue Authorities.

11 As noted earlier, there is concurrent findings recorded by all the Revenue Authorities below, after scrutinizing the entire material available on record. The pleadings of the petitions and the arguments advanced would amount to reappreciation of evidence on record. After perusing the entire record made available, this Court finds that the Authorities below have not committed any error or irregularity either in law or on facts while passing the impugned Orders. The impugned Order passed by the Respondent No.3 also

does not suffer from any error, illegality or perversity.

12 In view thereof, this Court found that the Petition is devoid of merits, is accordingly rejected.

(A.S. GADKARI, J.)