

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9467 OF 2018
IN
WRIT PETITION NO. 12930 OF 2017

AMRUTRAO S/O SHANKARRAO DESHMUKH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. V. R. Dhorde, Advocate for the Applicants.
Mr. A. B. Chate, AGP for Respondent Nos.1 to 4.
Mr. C.D. Biradar, Advocate for Respondent No.5.
Mr. B.G. Sagade, Advocate for Respondent No.12 & 14.
Mr. R. R. Mantri, Advocate for Respondent No.13.

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CORAM : V. K. JADHAV, J.
DATED : 28th FEBRUARY, 2020

ORDER :-

1. This Civil Application is filed to amend the Writ Petition by adding Respondent Nos. 11 to 14, paragraph nos.20-A to 20-D, ground nos. XXVI to XXXI and prayer clause (EE).
2. Learned counsel for the applicants submits that considering the findings given by the trial court in Regular Civil Suit No. 24 of 1967, Regular Civil Appeal No. 100 of 1970 and Second Appeal no. 79 of 1972 on the issue in respect of the right claimed by respondent no.5 on the basis of the alleged will deed executed by

Indirabai in his favour, respondent no.5 failed to prove his rights in respect of the suit lands on the basis of the said will deed. Respondent no.5 had therefore no right to file application claiming occupancy rights. Learned counsel submits that the SDO Parali and the Hon'ble Minister have passed the orders ignoring the judgments and orders passed by the trial court as detailed above, confirmed by the first appellate court and this Court. Learned counsel submits that respondent no.5 in collusion with the revenue authorities fraudulently entered his name in 7X12 extract. Furthermore, respondent no.5 has executed the sale deed dated 06.01.2017 in favour of respondent nos. 12 to 14. Thus, learned counsel submits that, the sale deed is also annexed at Exhibit "O" to the application. Learned counsel submits that respondent nos. 12 to 14 are thus necessary parties. Learned counsel submits that respondent no. 11 is the Minister whose order is impugned in this Writ Petition and hence, he is also a necessary party.

3. Learned counsel appearing for the respective respondents have strongly resisted the application. Respondent no.5 and 14 have also filed their short affidavits-in-reply to the application. Learned counsel for respondent no.5 submits that the subject

matter of the dispute is the Inam land governed under the provisions of the Hyderabad Abolition of Inams and Cash Grants Act, 1954 and as such, the crucial date is 01.07.1960 as to the possession of such land before commencement of the Act. Thus, the person who is in possession of such Inam land as on the date 01.07.1960 will be entitled for grant of occupancy rights. On the said date 01.07.1960, deceased Indirabai was in actual and physical possession over the said Inam land and accordingly her name appeared in the Revenue record. Said Indirabai executed will deed in favour of respondent no.5 and she died in the year 1963. After demise of Indirabai, name of respondent no.5 came to be mutated under Mutation Entry No. 805 in respect of the suit land. Learned counsel for the respective respondents submit that the Civil Application discloses no cause, reason or ground to add respondent nos. 12 to 14. Respondent no.5 had executed the registered sale deed with prior sanction of the competent authority in the year 2017 in favour of the proposed respondent nos. 12 to 14. Even after knowing the said sale deed, the petitioners failed to implead proposed respondent nos. 12 to 14 before the two authorities below.

4. Learned counsel appearing for proposed respondent nos. 12 to 14 submit that respondent nos. 12 to 14 are the *bona fide* purchasers of the property and they have paid huge amount as a consideration. It is submitted that the applicant is expanding the scope of the petition by introducing the totally new, inconsistent and irrelevant facts and cause of action. Learned counsel for proposed respondent nos. 12 to 14 submit that respondent nos. 12 to 14 are unnecessarily dragged in the present dispute with some ulterior motive. The applicant is trying to mislead the Court and thus, the application is liable to be rejected.

5. I have gone through the particulars of events in terms of paragraph no.20A of the proposed amendment in the application, so also the grounds raised in terms of that and the documents annexed the civil application. Respondent no. 11 is the Minister whose order is impugned in this Writ Petition. It appears that during pendency of the dispute before the authorities below, the proposed respondent nos. 12 to 14 had purchased the property in question. In view of the same, they are also the necessary parties to this Writ Petition. The averments made in the application so also the say filed on behalf of the respondents would be considered

during the course of hearing of the Writ Petition. The proposed respondent nos. 12 to 14 are also entitled to file their detail reply to the Writ Petition, if so desired. Thus, considering the entire aspects of the case, I am inclined to allow this Civil Application. Hence, the following order:

ORDER

The Civil Application is allowed in terms of prayer clause "A" and disposed off accordingly.

(V. K. JADHAV, J.)

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