

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

919 PUBLIC INTEREST LITIGATION NO.2 OF 2020

**RAMESHWAR BABURAO SURYWANSI
VERSUS
THE STATE OF MAHRASHTRA AND OTHERS**

Advocate for Petitioner : Mr Gadekar Anant D.
AGP for Respondents State: Mr S P Sonpawale

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.

DATE : 14th January, 2020

ORDER:

1. Heard Mr. Gadekar, learned counsel for the petitioner at length.

2. At the outset, we may state that this petition is an example as to how the remedy of public interest litigation is misused. The petitioner, who claims to be a social worker, interestingly enough shy of disclosing anything about his occupation and with a statement that the petitioner is a citizen of India and is a social worker and is President of R.T.I. Karyakarta Manch, Latur is approaching this Court with a prayer, seeking issuance of an appropriate writ, order or direction to the Government authorities- respondents, particularly Respondent No.2 to take appropriate action for cancellation of sale deeds dated 26.04.2016 and 12.08.2016 in respect of Kabala plot admeasuring 45x24 sq.ft. situated at Sakol Tq. Shirur Anantpal, Dist. Latur.

3. The learned counsel for the petitioner invited our attention to the documents placed on record at Exhibit-A and submitted that the land survey No. 38 situated in village Sakol, Taluka Nilanga District Latur was the Government land. One Mr. Baburao Mallappa Takale submitted an application to the Tahsildar, Nilanga on 03.01.1994 for allotment of land out of survey No.38. Then it is the submission of the petitioner that Mr. Baburao Takale to whom certain land was allotted indulged in act of sale of part of the land by way of sale deed. It is the submission of the learned counsel for the petitioner that this act of Mr. Baburao Takale, who is respondent No.9 in the petition, was in breach of the condition of the Kabala land.

4. On a specific query to the learned counsel as to why the petition is filed in the year 2019 when the petitioner seeks directions of appropriate action in respect of the land under sale deed dated 26.04.2016 and 12.08.2016, the learned counsel only invited our attention to the document at Exh.A which is the document of the year 1994 and then a report dated 27.11.2018, copy of the same is placed on record at Exh.F. Exhibit A is a copy of document of the year 1994 and nowhere it is stated in the petition that this document is obtained by taking recourse of Right to Information Act. There is not a single word in the petition to show the source of this document. Similarly, the report placed on record at Exh.F dated 27.11.2018 is in

response to the application submitted by one Suryakant Vishwanath Ankulge.

5. Learned counsel for the petitioner then invited our attention to report in response (Exh.G) to an application dated 24.09.2018 submitted by Mr. Suryakant Vishwanath Ankulge. In this report, a reference is made to the proceeding pending before the Joint Civil Judge, Junior Division, Nilanga in Regular Civil Suit No.481/2017. Copy of the plaint in Suit No.481/2017 is also placed on record by the petitioner himself along-with an order passed by the Civil Judge, Junior Division on an application submitted at Exh.5. It will be necessary to refer to the observation of the learned Civil Judge, Junior Division as, they specifically refer to the contention raised in the proceeding in respect of the sale of land by Shri Baburao Takale under the sale deed. Contention was raised before the learned Civil Judge, Junior Division that Mr. Baburao Takale had encroached upon the Kabala land survey No. 38 and he had no right to sell that property /land and whatever transaction of sale deed made by Mr. Baburao Takale is null and void. The learned Civil Judge, Junior division, on this contention, specifically recorded observation that this issue needs consideration and the same shall be decided at the time of final hearing of the matter. Now, this fact makes it crystal clear that the issue in respect of sale of the land under the sale deed by Mr.

Baburao Takale is pending consideration of the competent Civil Court. Now, this very fact runs in total contrast to the statement of the petitioner in the P.I.L. In para 5 of the petition, the petitioner declares on oath that there is no civil or criminal proceedings filed or going on which could have legal nexus with the issue involved in the public interest litigation, when, the petitioner himself has placed on record a documents in the form of the orders passed by the Competent Civil Court referring to the very issue pending consideration of the competent Civil Court. Thus, the statement made on oath by the petitioner in paragraph No.5 is certainly a statement running contrary to the facts.

6. In the present P.I.L, the petitioner is seeking direction in respect of certain landed property which is already a subject matter before the competent civil court and as such, it is our clear opinion that this petition is nothing but a misuse of the remedy of public interest litigation. The facts referred above would only lead to an inescapable conclusion that the public interest litigation is thoroughly merit-less and deserves to be dismissed at the threshold with imposition of costs on the petitioner for misusing the remedy.

7. As stated above, the petitioner has failed to make any statement about his occupation, as such, a query was made to the

learned counsel for the petitioner as to the source of livelihood of the petitioner and the learned counsel for the petitioner, on instructions, submitted that the petitioner's source of livelihood is doing agricultural activity and owns agricultural land and that the petitioner is an agriculturist. Considering the source of livelihood of the petitioner, we deem it appropriate to impose costs of Rs.5,000/- upon the petitioner.

8. The Public Interest Litigation is accordingly dismissed with costs.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

JPC