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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (St.) No. 6751 OF 2016

Amulya Awinash Dahanukar & Ors. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

Mr. S. G. Karandikar, for the Petitioners.

Mr. A. R. Metkari, AGP for Respondent Nos. 1 and 2.

Dr. Ranjit Thorat, Sr. Counsel a/w Sandeep S. Salunke, for Respondent Nos. 3 to 8.

Mr. Sachin Pawar, for Respondent Nos. 13 and 14.

CORAM : C. V. BHADANG, J.

DATE : JANUARY 16, 2020

PC :

1. The challenge in this petition is to the order dated 21st August, 2014 passed by the Hon'ble Minister for State (Revenue), by which Gat No. 179, admeasuring 0H – 33R, and Gat No. 180 admeasuring 3H - 64R of village Koregaon Bhima, Tahsil Shirur, district Pune have been denotified as Devasthan Inam Class III lands. As a result thereof, the concessional assessment granted to the lands stands withdrawn.

2. A perusal of the impugned order shows that as per oral order of the Sub-Divisional Officer dated 13th September, 1981, the said land

was shown as Devasthan Inam land in respect of a Masjid, and accordingly, a mutation was carried out, being Mutation No. 759.

2. Petitioners claim to be successors of Mr. V. L. Dahanukar, who as per the entry dated 7th July, 1949 (bearing No. 2583) has been recorded as a protected tenant in respect of subject lands. The only contention raised on behalf of the Petitioners is that the Petitioners, who are the successors of Mr. V. L. Dahanukar, were not noticed and have not been heard when the impugned order was passed, by which the said lands were denotified as Devasthan Inam, Class III lands. On behalf of the Petitioners, reliance is placed on the decision of this Court in a batch of petitions, lead petition being ***Writ Petition No. 13488 of 2017 (Suresh Naik & Ors. Vs. The State of Maharashtra & Ors.), dated 8th March, 2018.*** It is submitted that State Government is required to collect the data of all Devasthan Inam lands, and such land cannot be lightly denotified, as has been done in the present case. It is submitted that private Respondent Nos. 3 to 8 have executed the sale-deed in respect of the said lands, as if these are their private lands, which is illegal.

3. Learned senior counsel appearing for Respondent Nos. 3 to 8 has supported the impugned order. It is submitted that all that the impugned order directs to denotify a Devasthan Inam, Class-III land,

which has a bearing on the removal of the lands as concession levy and nothing else. It is not shown as to how Petitioners are adversely affected by the impugned order. Learned senior counsel has pointed out that apart from present petition, Petitioners have also filed a civil suit seeking injunction and a proceeding under the Tenancy Act, after impugned order is passed. It is pointed out that the order in tenancy proceeding is adverse to the Petitioners, which order is subject matter of challenge in appeal. It is submitted that by virtue of the fact that the lands are no longer Devasthan Inam lands, that the Petitioners were able to file the proceedings under the Tenancy Act.

4. I have carefully considered the rival circumstances and the submissions made and I find that no case for interference is made out. Admittedly, Devasthan i.e. Masjid is not a registered public trust. The impugned order passed by the Hon'ble Minister shows that there was a certain oral order of the Sub-Divisional Officer, under which the lands were recorded as Devasthan Inam lands Class-III. That apart, impugned order records that only in respect of Gat No. 180 name of V. L. Dahanukar was recorded as a protected tenant. However, the said entry was cancelled as per Mutation No. 3520, which has not been challenged by the Petitioners. A bare perusal of the impugned order shows that if object of the Devasthan Inam is not achieved, inasmuch as income from

the Inam land is not utilised for the object of the Devasthan, the concessional levy of the land revenue has to be withdrawn and full land revenue should be levied. Hon'ble Minister in this regard has referred to para 66 of "Joglekar Alienation Manual". Learned senior counsel for Respondent Nos. 3 to 8, in my view, is right in contending that interest of the Petitioners, on the basis of alleged claim that his predecessor Mr. V. L. Dahanukar was a protected tenant, is not at all affected by the impugned order. It appears that only after the lands were denotified as Devasthan Inam lands that the Petitioners could and did approach the tenancy authority. It is neither necessary nor appropriate to go into the merits of the claim made by the Petitioners before the tenancy authority, inasmuch as the said matter is subjudice in appeal. Suffice it to mention that the Petitioners have not shown any justifiable reason for interference in the impugned order, nor has shown how they are adversely affected by the impugned order.

5. Reliance placed on the decision of this Court in the case of **Suresh Naik & Ors** (supra) to my mind is misplaced. As noted above, the Hon'ble Minister has noted that it was on the basis of some oral order of the SDO that the lands were notified as Inam lands. That apart, the Devasthan, which is a Masjid, is also not said to be registered trust.

6. Learned counsel for the Petitioners has also placed reliance

on the decision in Writ Petition No. 3899 of 1999, which was filed by Avinash Wamanrao Dahanukar, who is father of the first Petitioner, challenging acquisition of the land by a notification dated 4th January, 1999. I find that this Court by an order dated 17th July, 2000 has found that there was no inquiry under S. 5A of the Land Acquisition Act held, and the Petitioner was entitled to hearing. It is difficult to see as to how the said decision can come to the aid of the Petitioners. As noticed earlier, the impugned order cannot affect claim of the Petitioners, if any, under the Tenancy Act. However, I would hasten to add that this Court has not examined merits of such claim. Subject to this, no case for interference is made out. The writ petition is without merit and is accordingly dismissed with no order as to costs.

Sd/-
C. V. BHADANG, J.

Vinayak Halemath

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P.
Halemath

Digitally signed
by Vinayak P.
Halemath
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