

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

LETTERS PATENT APPEAL NO. 156 OF 2010

Shri Babu Aba Lavand
Since deceased by Legal Heirs .. Appellants
Vs.
Shri Waman Atmaram Lavand & Ors. .. Respondents

Ms. A. R. S. Baxi for the Appellants.
Mr. R. S. Kate for Respondent No.1.

**CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 3rd JANUARY, 2020.**

ORAL JUDGMENT (Per Pradeep Nandrajog, CJ)

1. Heard learned Counsel for the Appellants.
2. One Aba Lavand and his brother Baba Lavand were cultivators of land comprised in Gat No. 181. On the date notified as tillers day under the Bombay Tenancy and Agricultural Land Act, 1976, the two exercised the option under Section 32G of the Act and were declared the owners of the land upon payment of price settled.
3. Aba died on 25.11.1970 and Baba died on 25.12.1979. Aba's half share in the land devolved upon Babu Aba and on Baba Lavand's death his share devolved on Dattatray.
4. The two cousins executed sale deed on 01.01.1980 and 01.10.1980 respectively. Each transferred their ½ share in the property to Waman and Krishnabai.

5. After six years of the sale an inquiry under Section 43 read with Section 84 of the Act was undertaken resulting in an order being passed declaring the sale to be void on account of lack of permission from the Collector and land came to be vested in the State.

6. Waman and Krishnabai filed an Appeal. They lost. They took resort to the revisional remedy and lost. Then the two filed Writ Petition No. 1165 of 1993 which has been allowed by the impugned order dated 07.07.2009.

7. Two reasons have been recorded by the learned Single Judge in allowing the Writ Petition filed by Waman and Krishnabai. The first is that inquiry contemplated by Section 84 had to be within a reasonable time. Six years gap between the sale and the initiation of inquiry has been found to be unreasonable time. The second is that the Revenue Authorities misdirected themselves on the issue whether the purchasers had made substantial improvements on the land. For if, substantial improvements were made, a sale sans a permission from the Collector being irregular was capable of being protected by the purchaser upon proof by the improvements being made on the land. The learned Single Judge has noted that improvements in the form of boring a well, levelling the land and laying down a water channel have been effected.

8. The State has accepted the impugned Judgment.

9. In our opinion, Babu Aba Lavand who has since died and is now represented by his legal heirs has no locus standi to challenge the impugned Judgment for the reasons as far as he was concerned, he had executed the sale deed. He has no objection to the sale. The objection to the sale was by the State.

10. Apart from the fact that Babu Aba Lavand has no locus to maintain the Appeal, we find no merit in the challenge to the impugned order which recalled good reason to sustain itself. The two reasons we have already noted above and therefore we do not repeat the same.

11. The Appeal is dismissed.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

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