IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10779 OF 2019

Ikabai Laxman Mukane and anr .. Petitioners
Versus
The State of Maharashtra & ors .. Respondents

…

Mr. G.J. Sabnis for the petitioners.
Mr.K.S. Thorat, AGP for respondent nos.1 and 2.

**CORAM: PRADEEP NANDRAJOG, C.J.
AND BHARATI DANGRE, J.**

DATED : 3rd JANUARY, 2020.

P.C:-

1 Heard learned counsel for the parties.

2 Challenge in the Writ Petition is to the order dated 18th April 2016 (wrongly typed in the petition as "14th April 2016") and a subsequent order dated 21st March 2018, limited to the price reflected in the said two orders required to be paid by petitioner No.2 to petitioner No.1.

3 The first petitioner is a member of a Scheduled Tribe so as the petitioner No.2.

4 Petitioner No.1 desired to sell land comprised in Survey Nos. 51/3 (area 0-24-5), 118/1 (area 0-62-5), 120/1 (area

0-15-1), 121/3 (area 4-28-0), 121/5B (area 1-97-0), 119/1 (area 0-23-9) in village Tondli, Taluka Murbad, District Thane to petitioner No.2. They entered into a written agreement to sell on 17th September 2010 recording sale consideration to be ₹ 5 lakhs. At the relevant time as per Government norms for stamp duty the price of the land could not be less than ₹ 3,50,602/-. On 20th September 2010, first petitioner submitted an application seeking permission under Section 36(2) of the Maharashtra Land Revenue Code. The application sought permission to sell land from a Tribal to a Non-tribal.

5 Fearing petitioner No.1 selling the land to some other person, petitioner filed Special Suit No.540/2011 in the Court of Civil Judge, Kalyan seeking specific performance of the agreement to sell which was decreed by consent on 12th November 2013. As per the consent, the sale price stood increased to ₹ 6 lakhs.

6 In terms of the consent decree, reminder was sent to the Collector to accord permission and while doing so, vide order dated 18th April 2016 the Collector wrote that the sale price has to be ₹ 19,05,500/- on account of the increase in the value of the land as notified by the Government. It was followed by the order dated 21st March 2018 recording that there has been further increase in the price of the land as per circle rate.

7 Suffice it to state, the price at which the land had to be sold by petitioner No.1 to petitioner No.2 was as per the agreement to sell dated 17th September 2010. The said agreement to sell records sale price of ₹ 5 lakhs which is more than the circle rate price. Due to dispute between the parties, they had to litigate. Circle rates may have been increased but that would not impact the sale price agreed to between the parties.

8 Thus, we dispose of the writ petition quashing the price fixed for the sale by the Collector in the two impugned orders.

9 We declare that the sale price would be ₹ 6 lakhs. We record a caveat. The caveat would be that if the Stamp Act contemplates stamp duty to be paid by linking the same to the market value of the land as per the Ready Reckoner when the sale deed is presented for registration, the stamp duty would be paid on the instrument of sale as per the ready reckoner, notwithstanding the actual sale price being as directed and declared.

10 Needless to state such conditions which needs to be complied for the sale would be complied with.

SMT. BHARATI DANGRE, J **CHIEF JUSTICE**

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