

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 8505 OF 2019

Smt. Shantabai Vitthal Yerke @ Hollar through General Power of Attorney
P. No. 6 Sau. Manda Kisan Golekar and others

vs.

State of Maharashtra, through its Secretary, Forest and Revenue Department,
Mumbai – 32 and others

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Smt. Mrunal Naik, AGP for respondents.

CORAM : MANISH PITALE J.

DATED : 15/01/2020

This writ petition was called out in the morning session, when none appeared on behalf of the petitioners, although Smt. Mrunal Naik, learned AGP appeared on behalf of the respondents-State Authorities.

2. The petition was passed over once with a request to the learned AGP to inform the learned counsel for the petitioners to be present in this Court on the second call.

3. In the afternoon session when the writ petition is called out for the second time for hearing, again the learned counsel for the petitioners is absent. The learned AGP appeared on behalf of respondents-State Authorities, and stated that she sent a message to the learned counsel for the petitioners that the writ petition would be taken up for hearing on the second call.

4. Be that as it may, a perusal of the writ petition shows that the petitioners are seeking quashing and setting aside of a registered Sale Deed dated 29/01/2007, executed by their predecessor in favour of the respondent State Authorities. During the lifetime of the predecessor, neither he, nor the petitioners raised any challenge to the said Sale Deed and the petitioners as his successors have approached this Court by filing the present Writ Petition on 08/11/2019 i.e. more than 12 years after execution of the registered Sale Deed.

5. The other prayers in the writ petition are to the effect that a direction be given to the Authorities to accept the claim of enhancement of compensation of the petitioners under Sections 18 and 28 of the Land Acquisition Act, 1894 and further prayer for enhancement of the amount payable to the petitioners at a particular figure stated in the prayer clause.

6. The learned AGP appearing on behalf of the respondent Authorities has pointed out from the documents filed along with writ petition that the Sale Deed was executed in favour of the respondent by the predecessor of the petitioners for a valuable consideration of Rs.57,77,071/-. Therefore, the material on record indicates that the predecessor of the petitioners had executed the registered Sale Deed dated 29/01/2007, in favour of the respondent Authorities upon receiving substantial consideration amount.

7. It is further pointed out by the learned AGP, that in the Sale Deed dated 29/01/2007, it is recorded by the predecessor of the petitioners that he had no grievance about the amount of consideration and that he would not raise any claim for enhancement of the same. Needless to say the registered Sale Deed also records the fact that the heirs of the predecessor of the petitioners would not raise any grievance in that regard. In the face of such material, it is difficult to imagine how the petitioners expect this Court to exercise writ jurisdiction to consider entertaining the prayers made in writ jurisdiction. It is obvious that such a writ petition for the prayers made therein in the context of registered Sale Deed dated 29/01/2007, cannot be entertained.

8. In view of the above, the writ petition is found to be without any merit, and accordingly, it is dismissed. It is clarified that by the present order, this Court has expressed its opinion about the petitioners claiming right to invoke writ jurisdiction of this Court and this order will not come in the way of the petitioners to exercise such remedy as may be available in law, in respect of the aforesaid Sale Deed dated 29/01/2007.

JUDGE