

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 954 OF 2021

- 1) Naresh Jiyaldas Nandwani,
Aged about 45 years, Occu. - Business,
- 2) Thakurdas S/o Jiyaldas Nandwani,
Aged about 56 years, Occu. - Business,
R/o Morshi, Tq. Morshi,
Dist. Amravati.

.... **PETITIONERS**

// VERSUS //

- 1) State of Maharashtra,
through its Chief Secretary,
Forest Department,
Mantralaya, Mumbai,
- 2) State of Maharashtra,
through its Chief Secretary,
Revenue Department,
Mantralaya, Mumbai.
- 3) Director of Town Planning,
Nagar Palika Prashashan, Directorate,
New Administrative Building,
In front of Sachivalaya, Mumbai.
- 4) Assistant Director,
Town Planning, Vidharbha Region,
Old Sachivalaya Building, Nagpur.
- 5) Divisional Commissioner,
Amravati Division, Amravati.
- 6) The Collector,
Amravati.
- 7) Chief Officer, Nagar Parishad, Morshi,
Tq. Morshi, Dist. Amravati.

- 8) Sub Divisional Officer,
Morshi, Tq. Morshi, Dist. Amravati.

.... **RESPONDENTS**

Shri Ajay K. Madane, Advocate for the petitioners.
Shri N. R. Patil, A.G.P. for the respondent Nos.1, 2, 4 to 6 & 8.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 17.03.2021.

ORAL JUDGMENT : (Per Sunil B. Shukre, J.)

1. Hearing is conducted through Video Conferencing and all the learned Advocates agreed that the audio and visual quality was proper.

2. Heard Shri A. K. Madane, learned counsel for the petitioners and Shri N. R. Patil, learned A.G.P. who appears by waiving notice on behalf of respondent Nos.1, 2, 4 to 6 and 8. There is no need to issue notice to respondent No.7 as no relief has been claimed against respondent No.7.

3. Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

4. The petitioners submit that they have purchased a piece of land situated in Survey No.26, Mouza Morshi, District Amravati from one Tulshiram Bachei Kuril and the purchase was in respect of the leasehold rights temporarily granted by the Revenue Authorities to said Tulshiram. The petitioners have filed on record copy of the original grant of leasehold rights temporarily granted to said Tulshiram for the period of 01.04.1967 to 31.03.1968. The petitioners have also filed along with this petition some documents showing renewal of the lease from time to time and last renewal was up to 31.07.1981. The petitioners have not filed along with the petition any further renewals but, learned counsel for the petitioner orally submits that as far as he remembers, the last renewal of the lease had taken place in the year 2017 and thereafter, the lease has not been renewed. It is the contention of the learned counsel for the petitioners that now the petitioners are in possession of the said piece of land and their possession is being threatened by respondent Nos.5 to 8 as respondent No.7 has issued a show cause notice to the petitioners on 18.06.2020, calling upon them to vacate the land which is said to be under their illegal occupation.

5. On consideration of various documents filed on record, we are of the opinion that the petitioners do not have any right in the present case to agitate upon the proposed action of vacating of the land

by them. The petitioners, as per the document which is titled as “विक्री पावती” (Sale receipt), have acquired the leasehold rights in the piece of land bearing Plot No.21 and it is not known whether this plot No.21 is situated in Survey No.26 or not, which was originally allotted on leasehold basis to Tulshiram Bachei Kuril for a temporary period of time. Then, this sale receipt is executed on stamp paper of Rs.100/- and is an unregistered document. Such a document, therefore, would not transfer the immovable property of a value which was more than Rs.100/-. Then, the petitioners themselves admit that their application for transfer of temporary lease to them is pending with the Revenue Authorities. With such an admission of the petitioners, it cannot be said that the petitioners would have any right in law to seek a direction or injunction against any authority so that no coercive action of vacating of the land could be taken by the authority.

6. By the show cause notice dated 18.06.2020, the petitioners have been called upon to vacate the land within seven days and the land stated to be under illegal occupation of the petitioner is not the one situated in Survey No.26, but the one which belongs to the Municipal Council, Morshi – respondent No.7. Whatever documents on which the petitioner are placing reliance, are the documents which refer to lease of a Government land and not of the land belonging to

Municipal Council. The petitioners do not claim in any manner that they are occupying any land belonging to Municipal Council. In such a case, the petitioners would have to give reply to the Municipal Council making their stand clear in the matter. The petitioners, however, have not given any reply to the Municipal Council, Morshi. In fact, the petitioner No.2 had filed an identical writ petition claiming identical reliefs except for seeking of temporary stay to the show cause notice dated 18.06.2020 in the year 2020. That petition was Writ Petition No.2737 of 2020 and the petition was disposed of by an order passed on 02.11.2020 giving liberty to the petitioners to file appropriate reply before Municipal Council, Morshi. But, the petitioners have not done so. The petitioners have also not challenged the legality and validity of the show cause notice dated 18.06.2020 and only sought temporary stay to this notice. Apart from what is stated above, this petition involves disputed questions of fact and this would be an additional ground for not taking cognizance of this petition by this Court.

7. In the circumstances, we find that this petition is not tenable at law and is accordingly dismissed. No costs.

(AVINASH G. GHAROTE, J.)

(SUNIL B. SHUKRE J.)