

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

WRIT PETITION NO.278/2016

Ramnath S/o Domaji Bilawane,
Aged 50 yrs., Occ. Agriculturist,
R/o. Chichal, Po. Chichal,
Tah. Pauni, District – Bhandara.

..... PETITIONER

// VERSUS //

- 1) Ramdas S/o Janglu Gajbhiye,
Aged 70 yrs, Occ. Agriculturist,
R/o. Malchi, Po. Gose, Tah. Pauni,
District – Bhandara.
- 2) Rohidas S/o Jogo Goswami,
Aged 60 yrs, Occu.: Agriculturist,
- 3) Taramati Jago Goswami @ Taramait
Chokhoba Motghare,
Aged about 50 yrs,
R/o Bajrang Nagar, Line No.5,
Nagpur, Tah & Distt. Nagpur – 440027.
- 4) The Divisional Commissioner,
Nagpur Division, Nagpur,
Civil Lines, Nagpur.
- 5) The Collector, Bhandara,
Tah. and Distt. Bhandara.

- 6) The Sub-Divisional Officer,
Bhandara, Tah. and Distt. Bhandara.

.... RESPONDENTS

Mr. R. A. Gupte, Advocate for petitioner

Mr. S. M. Ghodeswar, Addl. G. P. for respondent nos.4 to 6.

CORAM : AVINASH G. GHAROTE, J.

DATED : 10/02/2021

ORAL JUDGMENT : (PER:- AVINASH G. GHAROTE, J.)

1] Heard Mr. Gupte, learned counsel for the petitioner. Mr. Ghodeswar, learned Addl. G. P, appears for the respondent nos.4 to 6. None appears for the respondent nos.1 to 3.

2] The present petition challenges the order as passed by the respondent no.4 in Revision No.4/RTS/59/2013-14 of Mouza Wasela, dated 23.07.2015, confirming the earlier orders passed by the SDO, Bhandara dated 21.12.2012 and the Additional Collector, Bhandara, dated 11.02.2014.

3] The land of Gat No.62, admeasuring 2.16 Hectare was owned by the respondent nos.2 and 3, out of which a portion admeasuring 1.20 Hectare, was sold to the present petitioner by a sale deed dated 08.03.2010, consequent to which mutation entry was effected in his name. The mutation entry was challenged before the SDO by the respondent no.1, on the ground that he had an earlier agreement of sale date 28.05.2003 in his favour in respect of which, a decree for specific performance had been passed in Special Suit No.36 of 2006 on 20.12.2008 and the sale to the petitioner was during the pendency of the execution proceedings bearing No.23/ 2009. There was another ground raised that the said land fell within the benefited zone of the Ghosi-Khurd project and any transfer or sale was prohibited under

Section 12 of the Maharashtra Project Affected Persons Rehabilitation Act , 1999, unless so permitted by the Authorities under the Act. The learned SDO considering the prohibition under Section 12 of the Act of 1999, accepted the appeal, and canceled the mutation entry in favour of the petitioner. An appeal carried to the Additional Collector against the same came to be dismissed on 11.02.2014 and revision thereafter also came to be dismissed on 23 July 2015.

4] The only ground canvassed by Mr. Gupte, learned counsel for the petitioner is that the petitioner was not a party to the earlier proceedings, due to which the impugned order cannot be sustained.

5] Mr. Ghodeswar, learned Addl. G. P for respondent nos. 4 to 6 submits that the prohibition in the statute affects the land and therefore whether the petitioner was a party to the proceedings or not cannot be a ground to up-set the orders.

6] It is not disputed that the land in question, fell within the benefited zone of the Ghosi-Khurd project. It is also not disputed that Section 12 of the Act of 1999, was applicable, which creates a prohibition for transfer of the land in any manner whatsoever, unless so permitted by the Authorities. Admittedly, there was no permission obtained by the petitioner before execution and registration of the sale deed dated 08.03.2010. This being the position, no fault can be found

with the impugned order. In so far as the plea that the petitioner was not party to the proceedings, it is not disputed that the predecessor i.e. the Vendor of the petitioner was a party to the proceedings, in view of which the petitioner would equally be bound by the orders passed against his Vendor. There is therefore no merit in the petition and same is accordingly dismissed. Rule is discharged. In the circumstances, there shall be no order as to costs.

(AVINASH G. GHAROTE, J)

Sarkate.