IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1431 OF 2017

Maroti Narayanrao Shinde,
Age: 50 years, Occu: Agriculture,
R/o. Mahatpuri, Tal. Gangakhed,
Dist. Parbhani … Petitioner

Versus

01. Mahesh s/o Raosaheb Katkade,
Age: Major, Occu: Agriculture,
R/o. Gangakhed, Tal. Gangakhed,
Dist. Parbhani

02. Smt. Neeta w/o Raosaheb Katkade,
Age: Major, Occu: Household and Agriculture,
R/o. Gangakhed, Tal. Gangakhed,
Dist. Parbhani

03. Prashant s/o Laxmikant Gundale,
Age: 40 years, Occu: Agriculture,
R/o. Gangakhed, Tal. Gangakhed,
Dist. Parbhani

04. Narayan Gir s/o Pratap Gir @ Giri,
Age: 32 years, Occu: Agriculture,
R/o. Mahatpuri, Tal. Gangakhed,
Dist. Parbhani

05. Vijay Gir s/o Pratap Gir @ Giri,
Age: 29 years, Occu: Agriculture,
R/o. Mahatpuri, Tal. Gangakhed,
Dist. Parbhani

06. Smt. Alka w/o Kishor Tadlimbekar,
Age: Major, Occu: Household,
R/o. Parbhani, Tal Parbhani,
Dist. Parbhani

Dismissed as per Court’s Order dated 18/06/2018

07. Smt. Kamalbai w/o Bhaskar Hundi,
Age: Major, Occu: Household,
R/o. Parbhani, Tal. Parbhani,
Dist. Parbhani.

08. Smt. Aruna w/o Sanjay Sundar,
Age: Major, Occu: Household,
R/o. Parbhani, Tal. Parbhani,
Dist. Parbhani.

09. Smt. Anjali w/o Prasanna Ledkar,
Age: Major, Occu: Household,
R/o. Parbhani, Tal. Parbhani,
Dist. Parbhani.

Dismissed as per Court's Order dated 18/06/2018

10. The Tahesildar, Gangakhed,
Tal. Gangakhed, Dist. Parbhani

11. The Deputy Collector (Land Reform),
Parbhani, Dist. Parbhani ...Respondents

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Advocate for Petitioner : Mr. D. A. Mane h/f Mr. Umesh Bodkhe
AGP for Respondents – State : Mr. P. N. Kutti
Advocate for Respondent Nos. 1 & 2 : Mr. Avinash S. Londhe
Advocate for Respondent No.3 : Mr. P. D. Bachate h/f
Mr. M. S. Bhosale

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CORAM : NITIN B. SURYAWANSHI, J.

RESERVED ON : 05th JULY, 2022
PRONOUNCED ON : 05th SEPTEMBER, 2022

JUDGMENT :

1. **Rule**. Rule made returnable forthwith. Heard finally by consent of the parties.

2. By this petition filed under Articles 226 and 227 of the

Constitution of India, the petitioner challenges the order dated 18/01/2017 passed by Maharashtra Revenue Tribunal, Aurangabad in case No.93/B/2015/P and seeks restoration of the said proceedings before the Tribunal.

3. Facts of the present case in the nutshell are that:

Land Survey No.77 admeasuring 08H 09R, situated at village Bhambarwadi, Taluka Gangakhed, District Parbhani (for short 'the said property') was owned by Maruti Kishanrao Hundi and Narayan Gir s/o Krupa Gir @ Giri was tenant in the said land. Original owner Maruti Hundi died issueless. Name of Narayan Gir s/o Krupa Gir was recorded in *Khasara Pahani Patrak* in the year 1954-1955. On 25/05/1957 name of Narayan Gir s/o Krupa Gir was recorded as protected tenant in the final tenancy register. He was shown to be in possession of the said property from the year 1954 to 1968. In the year 1969 name of Narayan Gir s/o Krupa Gir was illegally deleted from the record of rights and the name of Bhaskarrao Hundi, legal heir of original owner Maruti Hundi, was recorded in the revenue record of the said land. On 10/05/2006, respondents No.6 to 9 in the present petition who are legal representatives of Bhaskarrao Hundi, executed a sale deed in favour of Avinash Supekar and Bharat Supekar. Respondents No.1 and 2 purchased the said property from Supekar brothers on

01/03/2011.

4. Respondents No.4 and 5 filed application against the legal heirs of the original owner seeking tenancy certificate and possession of the said land before Tahsildar, Gangakhed. Tahsildar allowed the application and directed issuance of certificate under Section 38(E) of the Hyderabad Tenancy and Agricultural Lands Act, 1950 (for short 'the said Act') in favour of respondents No.4 and 5 on payment of occupancy price and accordingly revenue entry is directed to be taken.

5. Respondents No.1 and 2 challenged the order of Tahsildar by filing appeal before Deputy Collector (General), Parbhani which was dismissed on 20/10/2015. Respondents No.1 to 3 preferred revision before Maharashtra Revenue Tribunal, Aurangabad on 07/11/2015 against the order passed by Tahsildar and Deputy Collector (General). On 26/11/2015 the revision was admitted. By order dated 15/01/2016, Maharashtra Revenue Tribunal directed the parties to maintain *status quo* till 05/02/2016. The said stay was extended from time to time. The order of *status quo* was informed to Tahsildar, Gangakhed on 30/11/2015 by respondent No.3. On 11/01/2016 respondents No.4 and 5 executed sale deed in favour of the petitioner. On 28/12/2015, respondents No.4 and 5 applied to Tahsildar to record their names in revenue

record of the said property. Tahsildar issued show-cause notice to the Circle Officer and asked him as to why he has not registered mutation entry in favour of respondent No.4 and 5. By order dated 08/01/2016, Tahsildar directed Talathi to register the mutation entry recording names of respondents No.4 and 5 to the said property.

7. In spite of there being *status quo* order passed by the Tribunal, on 11/01/2016 the petitioner has purchased the said property from respondents No.4 and 5.

8. Respondents No. 1 to 3 filed application for stay in the revision petition and sought injunction restraining Tahsildar/ concerned authority from effecting mutation entry on the basis of registered sale deed dated 11/01/2016 till the final disposal of revision petition. The petitioner is not made party in the said application. The Tribunal by order dated 15/01/2016 issued notice on the said application and directed the parties to maintain the *status quo* on revenue record in respect of the suit property. Respondents No.1 to 5 filed compromise pursis in the revision and sought disposal of the revision petition. The petitioner is not made party to this compromise deed also. By the impugned order dated 18/01/2017, Tribunal accepted compromise pursis and the revision is allowed in terms of paragraphs No. 1 to 6 of the pursis thereby

setting aside the order dated 28/05/2015 passed by Tahsildar, Gangakhed and the order dated 20/10/2015, passed by Deputy Collector (General), Parbhani. It is this order which is challenged by the petitioner in the present petition.

9. Heard Mr. D. A. Mane, learned advocate holding for Mr. Umesh Bodkhe, learned advocate for petitioner, Mr. Avinash S. Londhe, learned advocate for respondents No.1 and 2, Mr. P. D. Bachate holding for Mr. M. S. Bhosale, learned advocate for respondent No.3 and the learned Assistant Government Pleader for respondents – State.

10. Learned advocate for petitioner assailed the impugned order on the ground that the petitioner was not made party to the application for stay filed in the revision petition, though relief against his sale deed was sought. Tribunal ought to have directed respondents No. 1 to 3 to implead the petitioner as a party respondent and ought to have given opportunity of hearing to the petitioner. The compromise pursis which is accepted by Tribunal affected the rights of the petitioner and without hearing the petitioner, compromise pursis could not have been accepted by the Tribunal. According to him, the impugned order is passed in violation of principles of natural justice. By relying on ***Ramchandra Singh Vs. Savitri Devi and Others, (2003) 8 SCC 319,*** he submits

that by a consent order right accrued to the third party cannot be set at naught and therefore, he submits that the impugned order passed by the Tribunal be quashed and set aside and the matter be remanded back to the Tribunal for consideration on merits after giving opportunity of hearing to the petitioner.

11. Learned advocate for respondent No.3 supported the impugned order. He submits that the petitioner has purchased the said property though there was an order of *status quo* in operation. The petitioner was aware about the revenue record bearing the names of respondents No.1 to 3. The petitioner was also aware of the litigation pending before the revenue authority. According to him, the petitioner is a person who used to purchase properties in dispute. No prior permission of Collector was taken by the petitioner before purchasing the said property and hence, the said transaction is bad in law and is in contravention of provisions of the said Act. Respondents No. 4 and 5 have specifically contended before Maharashtra Revenue Tribunal that they were not in possession of the said property at any point of time and the act of seeking tenancy certificate was under misconception. Therefore, the petition may be dismissed.

12. Learned advocate for respondents No.1 and 2 adopted the arguments of learned advocate for respondent No3.

13. Admittedly, the dispute in respect of the said property was going on between respondents No.1 to 3 and respondents No.4 and 5. At the instance of respondents No.4 and 5, Tahsildar passed order on 28/05/2015 directing issuance of tenancy certificate of the said property in their favour, on payment of occupancy price. Respondents No.1 to 3 challenged that order unsuccessfully by filing appeal before Deputy Collector. The decisions of Tahsildar and Deputy Collector are challenged by the respondents No.1 to 3 by filing Revision Petition No.93/B/2015/P before Maharashtra Revenue Tribunal, Aurangabad, wherein *status quo* order was passed on 15/01/2016. Admittedly, respondents No.4 to 9 were respondents in the said revision and the petitioner was not made party to the said revision.

14. During pendency of the revision, *status quo* order was in operation and the same was intimated to Tahsildar on 30/11/2015. The petitioner has purchased the said property on 11/01/2016 from respondents No.4 and 5 by way of registered sale deed No.62/2016.

15. It is a matter of record that respondents No.1 to 3 filed application for stay on 14/01/2016 seeking injunction restraining Tahsildar/concerned authority from effecting mutation entry on the

basis of registered sale deed No.62/2016 dated 11/01/2016, which is executed in favour of the petitioner. The petitioner is not added as party in the said application. The Tribunal directed to maintain *status quo* in respect of revenue record of the said property, by order dated 15/01/2016.

16. Thereafter, on 13/01/2017 compromise pursis is filed by respondents No. 4 and 5, wherein history of the said property as to how it is purchased by respondents No.1 to 2 from Supekar brothers is mentioned. It is also mentioned that respondents No.1 and 2 are in possession of 3H 45R land of the said property from the date of sale deed i.e. 01/03/2011. Remaining 4H 64R land was purchased by petitioner No.3 from Supekar brothers on 20/12/2013 and accordingly he is in possession of the said land to the extent of 3H 49R. Respondents No.4 and 5 have accepted that they were never in possession of 8H 9R area of the said property. It is further mentioned that on account of misunderstanding respondents No.4 and 5 applied before Tahsildar for tenancy certificate. By the said compromise deed respondents No.4 and 5 accepted the ownership and possession of respondents No.1 to 3 and it was requested that decisions of Tahsildar and Deputy Collector be set aside.

17. Considering the said compromise pursis filed by respondents No. 1 to 5, the Tribunal has disposed of revision

petition in terms of compromise and has set aside the order passed by Tahsildar and the order passed by Deputy Collector.

18. The petitioner was nowhere in picture in the entire revenue proceedings, from Tahsildar till Maharashtra Revenue Tribunal. The petitioner has not sought intervention in the revision petition filed before Maharashtra Revenue Tribunal at any point of time. Since the revision was filed by respondents No.1 to 3 and the matter was compromised between the parties of revision petition, Maharashtra Revenue Tribunal is justified in disposing of the revision petition in terms of compromise arrived at between the parties.

19. The petitioner in these facts is not entitled to claim that Tribunal could not have accepted the compromise pursis and disposed of the revision by accepting the compromise. If the petitioner has any grievance, he is entitled to avail appropriate remedy as permissible in law.

20. In ***Ramchandra Singh*** (supra), in a partition suit affected third party filed application challenging preliminary decree on the ground of the decree having been obtained by practicing fraud. The Hon'ble Apex Court held that application filed by the affected party is maintainable. It is further held that revenue

petition filed by the affected party is also maintainable and right of a third party cannot be set at naught by consent order.

21. There cannot be any dispute about the said proposition. However, in the case in hand, at no point of time the petitioner was party to the revenue proceedings as well as in the revision filed before Maharashtra Revenue Tribunal. In that view of the matter, this ruling would not help case of the petitioner.

22. For the aforesaid reasons, there is no merit in the challenge raised by the petitioner in the present petition. There is no factual or legal error committed by Tribunal while passing the impugned order. Writ petition being devoid of substance is dismissed. It is made clear that the petitioner is at liberty to avail appropriate remedy as permissible in law to ventilate his grievance.

(NITIN B. SURYAWANSHI, J.)

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