

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8305 OF 2015

RAJENDRA GUNDAPPA SHIRAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr.M.L.Dharashive, Advocate for the petitioner.
Mr.K.B.Jadhavar, AGP for respondent No.1.
Mr.Sanket S.Kulkarni, Advocate for respondent No.2.

(CORAM : BHARATI H. DANGRE, J.)

DATE : JANUARY 24, 2022

PER COURT :

1. Heard the learned counsel for the petitioner, the learned AGP for respondent No.1 and the learned counsel for respondent No.2.

2. The petitioner is aggrieved by the concurrent findings recorded against him by the Deputy Director of Land Records, Aurangabad and by the Revenue and Forests Officer in a revision application.

The learned counsel for the petitioner states that he is owner of Gat No.27 and 28 situated at village Padoli, Tal. and Dist.Osmanabad and according to him, he sold the land to the extent of 1 Hectre 62 R to one Jyoti Pawar in the year 1978 and the respondent No.2 is the

subsequent purchaser of the said piece of land from Jyoti Pawar in the year 1988. The situation emerges is to the effect that the land of the petitioner is adjacent to the land of respondent No.2 and there is a road between the two properties. The petitioner was being aggrieved by the claim of the respondent that he purchased that land excluding the land on which the Government had sanctioned the public road, and he urge that the land in possession is less than what he purchased by registered sale deed. The land came to be measured even at the instance of respondent No.2 in the year 1996 and the boundaries were fixed, but the contention of the petitioner is that the TILR measured the land excluding the road and therefore the land allotted in favour of respondent No.2 is less than 4 acres.

This constrained the petitioner to approach the "Lokayukt" who issued directions to measure the land and fix the boundaries and directions were issued to the Superintendent, Land Records to submit the report accordingly. However, the grievance is awaiting the said report, the respondent filed an appeal before the Deputy Director, Land Records, Aurangabad, who returned a finding to the effect that Gat Nos. 27 and 28 came to be demarcated on the consolidation scheme being made applicable and the road was sanctioned and since the question

involved in the dispute is whether the land under the road is also covered in the property purchased by the respondents. Recording that on perusal of the sale deed of the respondent, who purchased it from Smt.Jyoti Pawar with the specifications mentioned therein and by comparing the boundaries shown in the said sale deed to the exclusion of 20 feet from the center of the road, it is apparent that the said land has been sold to defendant No.2.

With this finding rendered, based on the contents and specifications of the land set out in the sale deed in favour of respondent No.2, even the revision preferred before the Secretary and Officer on special duty (Appeals), Revenue, has been rejected.

3. The learned counsel for the petitioner submit that he has already instituted a civil suit to which a reference has been made in paragraph No.8 of petition. In any case, if there is a decree in his favour, he is at liberty to execute the said decree, but in any case the concurrent findings recorded against him based on the description of the property mentioned in the sale deed of respondent No.2, which clearly exclude the land being counted from the center of the road upto 20 feet, the authorities have held against him. The said finding do not warrant any

interference and it is always open for the petitioner to agitate his grievance in a civil suit, which according to him, he has already filed and therefore his right in the property shall be governed by the outcome of the said proceedings, since in the present case, he has not even bothered to produce the documents in respect of land Gat Nos. 27 and 28.

For the reasons, recorded above, the writ petition do not deserve any consideration and it is dismissed.

(BHARATI H. DANGRE, J.)