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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

915 WRIT PETITION NO.11038 OF 2019

PANDURANG BALWANTRAO HALSE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr R. R. Deshpande, Advocate h/f Ms. P. R. Deshpande,
Advocate for petitioners;
Mr V. S. Chaudhary, A.G.P. for respondent No.1
Mr Eknath Sawant, Advocate for respondent Nos.3 & 4

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 1st March, 2022

PER COURT:

1. By this petition, the petitioners have put forth the following prayers :

“B) Issue a writ of mandamus or any other appropriate writ, and kindly direct the respondents for the restoration of the suit land in favour of the petitioners, and to submit with full of fairness that either the alternative equivalent land in the close vicinity of the suit land may be allotted to the petitioners or a reasonable amount of compensation may kindly be ordered to be paid to the petitioners by the respondents.

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C) to grant interim relief in favour of petitioners and as against the respondent no.1 directing it to not to pay any amount of land acquisition compensation to any body else other than the petitioners.”

2. The petitioner No.1 is an ex-serviceman. Petitioner No.2 is his wife. Petitioner No.3 is the widowed daughter-in-law of petitioner Nos.1 and 2. Petitioner Nos.4 and 5 are minor grand children of petitioner Nos.1 and 2.

3. The first petitioner retired from service on 01/01/1988 from the post of Havaldar. He is receiving his monthly pension. He applied to the Government of Maharashtra on 11/07/1977 through the office of the Tahsildar and Chairman, Lands Distribution Tribunal, Tq. Ahmedpur, District Osmanabad (which is now in Dist. Latur) for grant of a piece of land. By a certificate dated 11/07/1977, the competent authority granted an agricultural land under the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (hereinafter ‘the 1961 Act’) to the petitioners.

4. It is submitted that some politicians from the village panchayat assured petitioner No.1 that, if the land is gifted to the village panchayat, they would provide a Government or Semi Government job to the elder son of petitioner No.1, namely,

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Sachin. He was also assured reasonable amount of compensation. Petitioner No.1 voluntarily executed a gift deed dated 18/03/2002, which is registered in favour of the village panchayat, Chincholi. The said entry has been taken in the Day Book No.1135/2002 and the possession was handed over to the village panchayat. The grievance is that, till today, a Government or Semi Government job is not given to the son of petitioner No.1, inasmuch as, the amount of compensation is also not paid to him. According to the petitioner, the local politicians have cheated him.

5. We find from the certificate dated 11/07/1977 that the transfer of the land, whether by way of sale, gift, mortgage, exchange, lease or otherwise, excluding however a mortgage in favour of the State Government or a Society registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1961, for raising a loan for effecting any improvement of such land, was prohibited. If breached, the person in whose favour the present land is allotted, shall be liable for penalties and the land would be forfeited in view of Section 29(3) of the 1961 Act, by the Collector.

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6. It is quite apparent to us that the petitioner has voluntarily entered into the registered gift deed for self serving purposes on 18/03/2002. Clause 4(i) of the Certificate of Grant of Rights in Land for Agricultural Purpose, dated 11/07/1977, reproduced by us herein above, clearly makes the petitioner liable for penalties as well as the land being forfeited by the Collector.

7. The learned Advocate for the petitioners submits that as the limitation period is over, the petitioners have approached this Court.

8. In the above facts and circumstances of the case, where the petitioner has apparently played a fraud on the system, inasmuch as, several disputed questions have been raised to the extent that he should get compensation and that some politicians are to grant a job to the son of petitioner No.1 in Government or Semi Government services, we are not inclined to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India. This petition is an abuse of the process of the law, and therefore, we deem it appropriate to impose heavy costs upon the petitioners to the tune of Rs.25,000/- (Rs. Twenty Five Thousand).

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9. This petition is dismissed with costs quantified at Rs.25,000/-. If the said amount is not deposited by petitioner No.1 with the District Collector, Latur (erstwhile Osmanabad), on or before 31/03/2022, the District Collector shall initiate proceedings for recovery of the said amount by treating the same as arrears of land revenue under the Maharashtra Land Revenue Code.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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