

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.13848 OF 2016**

Shri. Bhujangrao Tukaram Ogale and Ors. ..Petitioners

Versus

Maharashtra Industrial Development Corporation  
and Ors. ..Respondents

Mr. Mahesh Deshmukh a/w Mr. Mahendra N. Sandhyanshiv i/by Mr.  
Prashant D. Jadhav, for the Petitioners.

Ms. Shyamali Gadre i/by Little & Co., for Respondent No.1 - MIDC.

**CORAM : NITIN W. SAMBRE, J.**

**DATE : 7<sup>th</sup> JANUARY, 2022**

**PC.**

1. Based on the title claimed to have vested in the petitioners by virtue of two different sale deeds executed in May 2015, of land alleged to have been acquired by the respondents and claimed to have been vested by virtue of legal fiction under Section 32 Sub Section (4) of the MIDC Act. In the aforesaid background, it is claimed that the petitioners are the purchasers without notice as at the relevant time the consent of the respondent No.1/MIDC was obtained for execution of the sale deed. The suit came to be filed for the declaration and injunction in which prayer for grant of temporary injunction came to be rejected by the Courts below.

2. Submissions of Mr. Mahesh Deshmukh, learned counsel

for the petitioners are the petitioners are the bonafide purchasers of the property and such purchase was never objected by the respondent No.1/MIDC particularly when the petitioners have sought no objection from the respondents. He would further claim that the possession of the property alleged to have been acquired, lawfully vested in petitioners by virtue of sale-deeds. In addition, he would urge that the petitioners continued to be in possession as is apparent from the report of the Commissioner under Order XXVI Rule 9 of CPC and unless due process is followed, they cannot be evicted from the suit property. As such, according to him, this Court needs to grant injunction during pendency of the suit restraining the respondent No.1 from dispossessing the petitioners.

3. Prayer is opposed by the counsel for the respondents.

4. I have considered the rival submissions.

5. The fact about the acquisition of the suit property which was purchased by the petitioners in 2015 is not in dispute. Even if it is claimed that as petitioners have purchased the suit property without notice, completion of acquisition proceedings before such purchase is a issue squarely goes against the petitioners. In my opinion, remedy to the petitioners lies against predecessor-in-title and not against respondent No.1/MIDC of claiming appropriate relief including compensation.

6. Apart from above, pursuant to the legal fiction as notice under Section 32 Sub Section (4) of the MIDC Act after acquiring the suit land, same stood vested in the MIDC as is apparent from the documentary evidence. In my opinion, both the Courts below have rightly held that the petitioners are not entitled for the temporary injunction. That being so, no case for interference is made out.

7. Petition as such stands dismissed.

8. Ad-interim protection which was earlier existing continued for a period of two weeks.

**[NTIN W. SAMBRE, J.]**