



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1062 CRIMINAL APPLICATION NO. 1757 OF 2021

Ramkrishna S/o Dnyaneshwar Kalekar

..APPLICANT

-VERSUS-

1. The State of Maharashtra

2. Jagannath S/o Vitthalrao Ghadge

..RESPONDENTS

...
Advocate for Applicant : Mr. Tungar Hrishikesh V.
APP for Respondent/State : Mr.V.K. Kotecha.
Advocate for Respondent No.2 : Mr.Deshpande Ajay S.
...

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 14th DECEMBER, 2023.**

PER COURT :-

. Heard.

2. The applicant before us has been serving as correction clerk with the office of T.I.L.R. Parali. FIR has been lodged by respondent no.2. According to him, land bearing survey no.58 (Gat No.185) belong to his father. Until 2005-2006, 30 Gunthas of land was recorded in 7/12 extract of the said land, however, in the year 2006-2007, then Talathi of Sajja Muha reduced the land from 30 Are to 22 Are in 7/12 extract. The reduced 8 gunthas of land was shown

in Khata extract of accused nos.1 to 3. Accused nos.1 to 3 were hand in gloves with Talathi Shri Mhaske. Accused nos.1 to 3 preferred application to the office of District Superintendent of Land Record for correction of land records belonging to them to bring it in consonance with mischief played by Shri Mhaske. That application was allowed by co-accused Dr. Veer (said to have been discharged). It is allegation of the informant that Dr. Veer neither issued any notice nor visited the site to measure the land and allowed the application preferred by accused nos.1 to 3. So far as regards the present applicant is concerned, it has been alleged that he was serving in the office of the T.I.L.R., Parali Vaijnath. Statement of Maharudra Ghadge and so-called panchas was recorded. He is said to be party to recording of the said statement.

3. According to the learned advocate for respondent no.2 and learned APP, the panchas have given statements that they were never present on 7th April, 2018, when the statement of Maharudra Bhagwat Ghadge is shown to have been recorded. This material goes again to Deputy Superintendent of Land Records one Mr. Patil. It is not the case of the prosecution that the said statement is in handwriting of present applicant (correction clerk). Dr. Veer allowed the application directing the T.I.L.R. to correct the record and make it in consonance with the alleged mischief played by Shri Mhaske. The

informant and two others preferred objection against the decision given by Dr. Veer dated 17th May, 2018. The office of the District Superintendent of Land Records allowed the said objection in terms of the following order :-

“आदेश :-

- १) हरकतदार यांचा दिनांक २०/११/२०१९ रोजीचा हरकत अर्ज ना मंजूर करण्यात येत आहे.
- २) मौजे सर फराजपुर ता. परळी वै येथील स.नं ५८ चा गट नं १८५ मध्ये दुरुस्ती करणे बाबत ईकडील दिनांक १७/०५/२०१८ चे पत्राने प्रसिध्द केलेला प्रारूप शुध्दीपत्रक प्रस्ताव याव्दरे रद्द करण्यात येत आहे.
- ३) अपीलदार यांचा वाद मिळकती बाबत दुरुस्ती करणेचा मूळ अर्ज तांत्रिक कारणास्तव नामंजूर करण्यात येत आहे.
संबंधीताना कळवावे.”

. Clause (2) of the aforesaid order indicates that the order of Dr. Veer was upset by the District Superintendent of Land Records vide order dated 22nd January, 2020.

4. The factual position as stands indicate that mischief that was allegedly played by Shri Mhaske could not be rectified till date. The dispute is being given colour of civil proceeding contending that the mistake had occurred in implementation of a Consolidation

proceedings. The consolidation authorities were requested to rectify the mistake. In this application, we are concerned with the role of the present applicant, a correction clerk. After order of Dr. Veer was passed, 15 days time was given to not implement the said order. Within a month from the date of the order informant and his family members approached the office of District Superintendent of Land Records. As such present applicant had no occasion to correct the record as was directed by order of Dr. Veer (co-accused) dated 17.05.2018. Although, in the FIR the present applicant is alleged to have been a conspirator along with Dr. Veer and other staff members of the office of T.I.L.R., except this statement, there is nothing to indicate the present applicant made any overt act or omission in his duty so as to infer his involvement in crime in question.

5. The learned advocate for the petitioner in Criminal Writ Petition No.1470 of 2021 submits that shadow investigation has been made, therefore, the petition is preferred for further investigation or re-investigation. We make it clear that if the said petition is allowed and something further comes on record, either in further investigation or reinvestigation against the applicant, he would necessarily be an accused in the case. Since as on today, there is nothing against the applicant to make him stand trial, we have no option but to allow this application with the aforesaid observations.

6. The application is allowed in terms of prayer clause "B".

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

sga/