

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9966 OF 2014

Fakira Mohan Gangurde (Since deceased)
through LRS. ..Petitioners

Vs.

State of Maharashtra through District
Collector Nashik & Ors. ...Respondents

and

WRIT PETITION NO.9971 OF 2014

Hanumanta Rakhama Gangurde (Since deceased)
through LRS. ..Petitioners

Vs.

State of Maharashtra through District
Collector Nashik & Ors. ...Respondents

and

WRIT PETITION NO.9969 OF 2014

Shri.Waman Punja Gangurde ..Petitioner

Vs.

State of Maharashtra through District
Collector Nashik & Ors. ...Respondents

Mr.Harshad M. Inamdar, for the Petitioners.

Mrs. V. S. Nimbalkar, AGP for the State.

CORAM : G.S. KULKARNI, J.

DATE : JANUARY 19, 2023

P.C.:

1. The challenge in the petitions is to a common order dated 11
December 2013 passed by the President, Maharashtra Revenue Tribunal.

By the impugned order, the revision applications filed by respondent No.2-the Federal Bank Ltd. against the judgment and order dated 30 August 2008 passed by the Sub-Divisional Officer, Nashik, in a group of 39 appeals, have been allowed.

2. In so far as the petitioners' case in these three petitions is concerned, the facts are similar. Sometime in the year 1996 the petitioners who were owners of certain lands had executed sale deeds to sell their lands in favour of M/s.Indo French Bio Tech Enterprises Ltd./respondent No.5 (for short ***Indo French***). There is no dispute that the sale deeds by which the lands of the petitioners were transferred in favour of Indo French, have continued to remain valid, legal and subsisting. These lands were mortgaged by Indo French in favour of respondent No.2-the Federal Bank to obtain loans. It is stated that a loans of Rs.4,80,00,000/- (Rupees Four Crores Eighty lakhs only) was obtained by Indo French from the Federal Bank, against the mortgaged of these lands which originally belonged to the petitioners. It is also not in dispute that the name of the Federal Bank was mutated in the Record of Rights.

3. It appears that some time in the year 1997 Indo French was directed to be wound up in the proceedings of a Company Petition filed before this Court. Respondent No.2-Federal Bank had also initiated

proceedings before the Debt Recovery Tribunal against Indo French. In such proceedings Court Receiver was also appointed in respect of the mortgaged property. It appears that some time in the year 2006, an inquiry was undertaken by Tahasildar as to whether the transfer of the lands which were subject matter of several sale deeds which included the lands conveyed by the petitioners under the independent sale deeds in favour of Indo French, could be said to be legal and not in breach of the Bombay Tenancy and Agricultural Lands Act, 1948 (for short '**the 1948 Act**'). In such enquiry the Tahasildar passed an order dated 30 May 2006 directing that the said lands be forfeited and taken into the custody of the State Government. Such order passed by the Tahasildar was challenged by the Federal Bank before the Sub-Divisional Officer (SDO) in appeals, who rejected the appeals filed by the Federal Bank by an order dated 30 August 2008. Against such order passed by the SDO, Nashik, revision applications in question came to be filed by the Federal Bank before the Maharashtra Revenue Tribunal (MRT), which have been allowed by the impugned order.

4. The principal contention as urged on behalf of the petitioners in support of the prayer that the impugned order passed by the MRT be set aside is to the effect that, the impugned order does not take into consideration the plea as urged on behalf of the petitioners that Indo French under the provisions of the 1948 Act could not have been

entitled to the benefits of the land under the sale deeds in question, and could not have mortgaged the lands.

5. On a perusal of the impugned order, the learned President of the Maharashtra Revenue Tribunal has observed that there were valid sale deeds and if at all the sale deeds were required to be held to be illegal for any reason, the sale deeds ought to have been declared illegal in the proceedings before the Civil Court. No such steps were taken by the petitioners to assail the sale deeds, so as to prevent the benefits of the sale deeds being enjoyed by Indo French, and more so in respect of which further rights were created in favour of the Federal Bank by Indo French.

6. On a query as made to the learned Counsel for the petitioners as to what are the rights of the petitioners qua the lands in question, once the petitioners had transferred their rights in such lands in favour of Indo French under registered sale deeds, learned Counsel for the petitioners is unable to dispel the legal position that once the sale deeds were executed certainly during the subsistence of the sale deed, no rights in law could have been claimed by the petitioners. If that be the position, once no legal rights could be asserted by the petitioners, the petitioners certainly cannot maintain the present petitions asserting rights in respect of the lands in question. In any event, in my opinion,

the sale deeds are of the year 1993, much water has flown under the bridge after the sale deeds were executed, namely that Indo French had obtained loans from the Federal Bank by mortgaging the said lands, at which point of time the petitioners had no quarrel. Subsequently, there are proceedings initiated by the Federal Bank before the Debt Recovery Tribunal for recovery of the amounts under the defaulted loan, the lands in question are subject of such recovery proceedings. At the same time, the winding up proceedings of Indo French Enterprises were initiated. Even if the petitioners intervene in such proceedings, the petitioners would be required to point out their legal rights in respect of such lands, more particularly when the sale deeds have not been declared null and void by any competent forum.

7. For the above reasons, no fault can be found in the observations as recorded by the Maharashtra Revenue Tribunal in allowing the revision applications filed by the Federal Bank.

8. In my opinion, no case whatsoever, even remotely, has been made out by the petitioners either on any legal rights or any other rights to assail the orders passed by the Tribunal. The petitions are devoid of merit. They are accordingly rejected. No costs.

[G.S. KULKARNI, J.]