

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5417 OF 2019

Shobha Babulal Banmare and ors __ Vs. __ Uma Sanjay Maddamwar and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.V.Lokhande, Advocate for petitioner
Mr. S.K.Pardhy, Advocate for Respondent Nos. 1 to 4
Mr. N.R.Patil, AGP for Respondent No.5

CORAM : AVINASH G. GHAROTE, J.
DATE : 09/02/2023

1] The only grievance by Mr. Lokhande, learned counsel for the petitioner, is that though the respondent no.5 while passing the order dated 7.11.2015 (pg.98) had kept the entire NA proceedings in abeyance till the decision of the suits, as indicated in para 4(c) of the said order (pg.97), without waiting for the decision of the suits, he has proceeded to pass the order dated 27.7.2016 (pg.143).

2] Once the learned respondent No.5 has held that the proceedings under Sections 44 of the MLR Code could not have been proceeded ahead in absence of the decision of the aforesaid suits (para 4(c) page 97), it was not permissible for him to have taken an about turn and without the decision of the suits proceeded ahead to pass final order dated 27.7.2016.

3] Mr. Pardhi, learned counsel for respondent Nos. 1 to 4 does not dispute that the suits as mentioned in the preliminary order dated 7.11.2015 are still pending including the counter claim of the petitioner challenging the sale deed in favour of the respondent nos. 1 to 4.

4] That being the position, the order dated 7.7.2016 (pg.143), cannot be sustained, the same is hereby quashed and set aside. The petition is accordingly allowed to the above extent.

5] It is made clear that the respondent no.5 shall proceed ahead in the matter of grant of permission under Section 44 of the MLR Code only after the suits as mentioned in para 4(c) (pg.97) of his preliminary order dated 7.11.2015 have been decided.

6] Since it is stated by Mr. Pardhi, learned counsel for respondent nos. 1 to 4 that 6 plots out of the layout sanctioned on the land purchased by the respondent Nos. 1 to 4 have been sold by them, it is made clear that no construction shall be permissible upon them, without the final order of NA being passed.

JUDGE

Rvjalit

Digitally sign byRAJESH
VASANTRAO JALIT
Location:
Signing Date:09.02.2023 18:20