

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

10 WRIT PETITION NO. 1641 OF 2024

RAMESH WAMANRAO LINGAYAT AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE PRINCIPAL
SECRETARY AND OTHERS

...
Advocate for the Petitioner : Mr. Biradar Chandrakant D.
AGP for Respondent Nos. 1 to 3/State : Ms. M.L.Sangit
...

CORAM : S. G. MEHARE, J.

DATE : 06th MARCH, 2024

PER COURT :

1. Heard the learned counsel for the petitioners and the learned APP for respondent Nos. 1 to 3.

2. The petitioners were power of attorney for respondent Nos. 4 to 8. Pursuant to the registered General Power of Attorney, the petitioners had initiated the proceedings before the Revenue Authority. However, respondent Nos. 4 to 8 terminated the power of attorney in favour of the petitioners. Respondent Nos. 4 to 8 had filed Review Application before the Additional Divisional Commissioner-2, Ch. Sambhajinagar for

inserting names of the new power of attorneys. In that proceeding the present petitioners appeared suo-moto through the learned Counsel Mr. Biradar. He had raised objection that the names of the newly power attorneys could not be inserted instead of their names. He has raised objection that respondent Nos. 5 to 8 have no right to terminate the power of attorney, since the power of attorney holders have themselves interest in the property, which is the subject matter of the power of attorney. Objections have also been raised that termination of the power of attorney is in contravention of the Contract Act.

3. Additional Divisional Commissioner, by his order dated 26.12.2023 recorded findings that their power of attorney has been terminated by a registered document. The petitioners knew the said termination, even then they appeared in the said proceeding. Since the new power of attorney was given to the other persons, their names cannot be inserted in the earlier orders. After this order, the petitioners have again moved an application before the Additional Divisional Commissioner-2, Ch. Sambhajinagar, making the same request. The Additional Divisional Commissioner-2, by observing earlier findings

recorded in the order dated 26.12.2023, rejected the application. He has recorded finding that it is the choice of the Principal to appoint the power of attorney of their choice.

4. The learned AGP would submit that against the impugned order a statutory remedy is available under the Maharashtra Land Revenue Code.

5. Per-contra, learned counsel for the petitioners submits that since the petitioners themselves have interested in the subject matter, the termination of the power of attorney is illegal and as such the power of attorney cannot be terminated.

6. The question is who would decide the legality and validity of the termination of power of attorney of the petitioners. The petitioners have also a case that they have an agreement to sale with respondent Nos. 5 to 8. The respondents are having interest in the power of attorney is a another question. These are the disputed facts. This Court cannot exercise its powers under Article 226 and 227 of the Constitution of India to decide the disputed facts.

7. Learned counsel for the petitioners would submit that he wanted to withdraw the Writ Petition, with liberty to approach the appropriate Court.

8. Leave granted, as prayed.

9. Writ Petition stands disposed of.

(S. G. MEHARE)
JUDGE

mahajansb/