



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.10979 OF 2021**

Sunita Vasant Kamble,
Age: 50 years, Occu: Housewife,
R/o: Pimpala (Bk.), Tq. Tuljapur,
Dist. Osmanabad

..Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-400 032.
2. The Additional Collector,
Osmanabad, Tq & Dist. Osmanabad.
3. Balasaheb s/o Namdeo Tambile,
Age: 64 years, Occu: Agriculture,
R/o Hipparga (Tale), Tq. North Solapur,
Dist. Solapur.
4. Santosh s/o Shivaji Garad,
Age 44 years, Occu: Agriculture,
R/o Kumthe, Tq. North Solapur,
Dist. Solapur.

..Respondents

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Mr. K. K. Kulkarni, Advocate for Petitioner.

Mr. V. M. Jaware, AGP for Respondent Nos.1 and 2.

Mr. V. D. Salunke, Advocate for Respondent Nos.3 and 4.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 01st JULY 2024.**

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court under Article 227 of the Constitution of India assailing the order dated 11.03.2020 passed

by the Additional Collector, Osmanabad in file Outward No.जा.क्र.
२०१८/सा.प्र/भुसुधार/कावी-९४.

3. Mr. K. K. Kulkarni, learned Advocate appearing for the petitioner submits that the petitioner is widow of Vasant Dagdu Kamble, who was allotted land bearing Gut No.248 admeasuring 1H 82R situated at village Pimpala (Bk.), Tq. Tuljapur under the provisions of Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (for short '1961 Act'). The respondent nos.3 and 4 claim that they have purchased aforesaid land from Vasant Kamble i.e. husband of petitioner under registered Sale Deed bearing No.2286/2009 dated 26.10.2009. The petitioner's husband died on 04.02.2018. Thereafter, respondent nos.3 and 4 moved an application dated 14.02.2018 for regularization of sale deed executed in contravention of Section 29 of 1961 Act. However, without issuing notice to the petitioner, such an application was entertained by respondent-authorities and regularization order came to be passed. Mr. Kulkarni would submit that such an application could not have been entertained without issuing notice to the legal heirs of Vasant Kamble/original allottee of the land. He invites attention of this Court to the office noting in the file before the Additional Collector, wherein specific remark was put to issue notices to all concerned. However, the petitioner was never served with any notice/intimation of proceeding moved by respondent nos.3 and 4.

4. Per contra, Mr. Salunke, learned Advocate appearing for respondent nos.3 and 4 submits that there is no dispute as regards to the execution of Sale Deed dated 26.10.2009 by Late Vasant Kamble i.e. husband of the petitioner. The petitioner moved proceeding for regularization of the sale deed. Consequently, after

deposit of fifty per cent of the market value of the land, sale has been regularized in terms of Government Resolution dated 15.12.2018 issued by the Department of Revenue and Forest under State of Maharashtra. He would submit that the petitioner has no *locus standi* in such matter. The regularization of the sale is something between purchaser of the land and Government. He would invite attention of this Court to the amendment in Section 29 of 1961 Act introduced in the year 2018 that permits regularization of the sale as regards to the lands granted under Section 28 of 1961 Act. He would submit that once the payment of the amount as determined by the State is made, no further proceeding for violation of the provisions of sub-section (1) or sub-section (2) of Section 29 can be invoked. To buttress his contentions he relies upon the following judgments:

- (1) ***Malhari Gangaram Kale & Others Vs. Shenfad Namdeo Tayade & Others***¹
- (2) ***Vithal Kondhalkar Vs. State of Maharashtra and Others***²
- (3) ***Kacharu S/o. Bhagaji Gaikwad & Ors. Vs. Smt. Sheela W/o Ramesh Mittal & Ors., (Writ Petition No.3220/1990)*** dated 30.04.2008.

5. Having considered submissions advanced by the learned Advocates appearing for the respective parties and after perusal of the original record tendered by the learned A.G.P., it can be observed that the petitioner never disputed the execution of Registered Sale Deed dated 26.10.2009 by her husband Vasant Kamble in favour of respondent nos.3 and 4. Admittedly, Vasant Kamble was allotted the land under the provisions of 1961 Act. However, 7/12 extract depicts that land is of Class-I occupancy.

¹ 2004 (4) Mh.L.J. 577.

² 1981 Bom. C.R. 32.

The respondent nos.3 and 4 made application for regularization of the sale after getting knowledge that sale deed is hit by Section 29 of 1961 Act. Section 29 of 1961 Act prescribes that without the previous sanction of the Collector, no land granted under Section 27 or 28 shall be transferred by way of sale or any other mode. However, by Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 2018 (for short 'Amendment Act of 2018') the provision is made that such land shall not be forfeited by the Collector for contravention of the provisions of sub-section (1) or sub-section (2), as the case may be, if the transferor, transferee or any other person interested in such land makes the payment of such amount, as the State Government may, by order published in the Official Gazette, specify. It is further clarified that such amount shall not exceed fifty per cent of the market value of such land, ascertained as per the current Annual Statement of Rates under Maharashtra Stamp (Determination of True Market Value of Property) Rules, 1995. Sub-clause (i) of sub-section (4) of Section 29 of 1961 Act states that no further proceeding for violation of the provisions of sub-section (1) or sub-section (2) shall be initiated on payment of the amount referred under sub-section (3) of Section 29 of 1961 Act. Pertinently, the aforesaid clauses are made applicable even to the proceedings initiated before the date of commencement of Amendment Act of 2018. Apparently, the powers vest with the State Government to regularize transaction on deposit of fifty per cent of the market value of the land under sale deed.

6. So far as petitioner's contention that she was never heard before passing the order of regularization, it can be observed that at the time of execution of the sale deed by petitioner's husband, she has given consent affidavit dated 11.11.2011. Even, there is no

provision that requires legal heirs of the vendor to be noticed before the order of regularization is passed by the Competent Authority.

7. In that view of the matter, no case is made out to cause interference in the impugned order dated 11.03.2020 in writ jurisdiction of this court Under Article 227 of the Constitution of India. Hence, Writ Petition sans merits and same is dismissed.

8. Rule is discharged.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/July-2024