



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1341 OF 2013
WITH
CIVIL APPLICATION NO. 9634 OF 2013
IN WP/1341/2013

SUNIL BABURAO JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for the Petitioner : Mr. Deshmukh M.N.
AGP for Respondent/State : Mrs. R.R. Tandale
Advocate for Respondent No.2 : Mr. A.S. Bajaj

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CORAM : S. G. MEHARE, J.

DATE : JANUARY 16, 2024

PER COURT :-

1. Heard the learned counsel for the petitioner and learned counsel for contesting respondent No.2.

2. The petitioner was the Power of Attorney of Suryabhan Gajarya Sonawane. He was the owner of the suit land. The dispute was open before the Tahsildar, Aurangabad for restoration of the land being it was a land owned by the scheduled tribe. Said order is placed at page No.50. The title shows that the said application was filed through three persons as power of attorney for Suryabhan Gajrya Sonawane. The Tahsildar decided the dispute on 28.02.2008. Against the said order, the present respondent No.2 had preferred the petition before the MRT. The MRT Aurangabad by its order dated 17.10.2011

quashed and set aside the order of the Tahsildar. Against the said order, the present petitioner has preferred the writ petition.

3. Learned counsel for the respondent submits that in pursuance of the order of this Court dated 21.09.2016, the petitioner filed a civil application No.9634 of 2013 contending that since the original contestant/petitioner died, the present petitioner being a power of attorney has no right to prefer the writ petition impugning the order of the MRT. The statement has also made in affidavit in Civil Application that the legal heirs of Suryabhan Sonawane had impugned the order of the MRT by writ petition No.8266 of 2011. That writ petition was disposed of as withdrawn.

4. Learned counsel for the petitioner has argued that the matter pertains to the lands of the tribes which were grabbed illegally. Other Bhills have filed the writ petition; however, they learnt that the jurisdiction lies with the Tahsildar. Therefore, they withdrew the said writ petition.

5. Against this, learned counsel for respondent no.2 referring to the judgment in Writ Petition No.8266 of 2011 submits that the legal heirs of the original petitioner – Suryabhan Gajrya Sonawane had preferred the writ petition. However, they withdrew the same.

6. A small question is whether a power of attorney continue after the death of the executant. The law is well settled that a power of attorney terminates automatically upon the death of the executant. It is valid in his life time. The rights of General Power of Attorney ceases on the death of executor.

7. The submission of the learned counsel for respondent no.2 was supported with the documents. The title clause of the petition shows that the petitioner has filed this writ petition in his personal capacity. Since the executant of the power of attorney died, the petitioner had no right to impugn the judgment and order. Hence, the petition stands dismissed.

8. All civil applications stand disposed of.

(S. G. MEHARE, J.)