



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

911 CIVIL APPLICATION NO. 13483 OF 2021
IN FA/3120/2021

HARIBAI RAMESH TELANGE AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Advocate for Appellant : Mr. Irale Eknath G.
AGP for Respondents/State : Mrs. A.S. Mantri
Advocate for Respondent No. 3 : Mr. Patil Jayant R.
...

CORAM : KISHORE C. SANT, J.

DATE : 20th JULY, 2024.

PER COURT :

1. Heard the parties.
2. The applicants are seeking stay to the judgment and order passed by the learned Civil Judge, Senior Division Ahmadpur dated 20.10.2021 in LAR NO. 10 of 2019. It is the case of the applicants that they are the owners of the land under acquisition and they are entitled to receive their shares in the amount of compensation.

3. It is stated that the applicants have purchased the landed properties by way of registered sale deed executed with Sub Registrar, Ahmedpur/respondent No.3 on 07.01.2011. However, the finding of the learned trial Judge specifically refers that in the reference Court it was the contention of the applicants that they have acquired interest in view of the agreement to sale in their favour. The Court has specifically recorded that no document is shown to that effect.

3. Learned Advocate for the respondents on the other hand points out that from another Civil Application No. 11785 of 2023 and the order dated 25.01.2024 that the Regular Civil Suit bearing No. 28 of 2011 was dismissed as the requisite Court fees was not paid.

4. Learned Advocate for the respondents, produced on record the certified copy of the plaint in the said Civil Suit and copy of a judgment and order.

5. In the plaint the applicants have stated that they have acquired interest in the property being the members of the family.

6. The Court specifically recorded that no evidence is led by the parties and held that the applicants could not give any evidence in support of their contentions.

7. He further pointed out that the document dated 07.01.2011 is in fact a document executed before the 'Notary Public' and not as alleged by the applicants in the application to be a sale deed. He submits that the applicants are thus coming with three different theories about their rights in the property. Whereas, there is categorical finding in favour of the respondents that they are the owners of the land which came to be acquired.

8. This Court, thus, finds substance in the argument of learned Advocate for the respondents.

9. It is clear that the applicants have taken three different stands in three different proceedings. It is also tried to argue that RCS No. 28 of 2011 is dismissed only on the ground of Court fees.

10. Exercise of discretion always depends upon the equitable principle. To seek equitable relief, it is necessary for

the parties to come with clean hands. This Court finds that the applicants were seeking stay, have not approached the Court with clean hands. In three different proceedings they have adopted three different stands and none of the stand is supported by any documentary evidence.

11. In view of the discussion above, this Court is inclined to reject the application. Therefore, the Civil Application stands dismissed. No Costs.

(KISHORE C. SANT)
JUDGE

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