



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 WRIT PETITION NO. 12605 OF 2017
WITH CIVIL APPLICATION NO. 110 OF 2018
IN WP/12605/2017

SAJAN CHANDRABHAN KALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Mr. Palodkar Devdatt P.
AGP for Respondents-State : Mrs. M. L. Sangit.
Advocate for Respondent Nos.4 to 9 : Mrs. Shelke Sunita
Dasharat.

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CORAM : S. G. MEHARE, J.
DATE : 03.01.2024

PER COURT :-

1. Heard the respective learned counsels for the petitioner and the respondents.
2. The case has a checkered history of the rights and title of the lands acquired for the MIDC. Both parties were claiming title over the lands acquired. The question of tenancy was involved in the matter. Therefore, various petitions were filed before the Revenue Authorities. The sale deeds executed in favour of the respondents were questioned as the lands were governed under the Hyderabad Tenancy and Agricultural Lands Act, 1950. This Court does not feel it appropriate to discuss

those orders in detail as those pertains to the question of facts. Finally, on an application of respondent Nos.6 to 9, the Tahsildar, Paithan has passed an order on 21.09.2017 in their favour.

3. It is the submission of the learned counsel for the petitioner in pursuance of the said order, the compensation amount has been released in their favour. It is a vehement argument of the learned counsel for the petitioner that the order of the Tahsildar dated 21.09.2017 is illegal and passed ignoring the earlier orders as regards the rights of the parties to be determined by the Civil Court under Section 35 of the M.I.D. Act.

4. Considering the checkered history and involvement of question of fact, this Court is of the view that the dispute may not be resolved in writ petition. Besides this, the order of the Tahsildar dated 21.09.2017 is appealable under the Hyderabad Tenancy and Agricultural Lands Act, 1950. The alternate remedy is available against the impugned order. Therefore, the writ petition is not entertained. Hence, the following order :

ORDER

- (i) The Writ Petition stands dismissed keeping all the points open.

- (ii) The petitioner is at liberty to impugn the order of Tahsildar dated 21.09.2017, vide O.W. No.2017/Bhusudhar/KUL/Kavi-173 on an application of respondent Nos.6 to 9, dated 16.08.2017, as per the law.
- (iii) Since the petitioner has approached the wrong forum, the delay spent in this proceeding may be considered for delay condonation, if remedy to impugn the said order is availed.
- (iv) Pending civil application stands disposed of.

(S. G. MEHARE, J.)

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vmk/-