

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5125 OF 2024

Dharamraj K. Pardi & Ors.

.. Petitioners

Versus

Kachru S. Pardhi & Ors.

.. Respondents

.....

- Mr. Prafulla B. Shah for Petitioners
- Mr. P.G. Sawant, AGP for Respondent Nos. 6 to 8

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 23, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 23.04.2024. Heard Mr. Shah, learned Advocate for Petitioners and Mr. Sawant, learned AGP for Respondent Nos. 6 to 8.
3. In the present case Petitioners would contend that they are purchasers of the subject / suit land from the vendors. Both purchasers and the vendors are Adivasis, however the learned Executing Court has placed a condition that permission of the Collector was necessitated while decreeing the Suit which was filed by the purchasers against vendors. According to Mr. Shah such leave of the Collector would not be required since both parties belong to the same community. However, this is not an absolute proposition. Permission of Collector is in respect of sale of land and the provisions

do not exempt such permission if both parties are Adivasis. Permission of Collector for sale of land belonging to an Adivasi is a statutory requirement under the Maharashtra Land Revenue Code, 1966. Mr. Shah would however contend otherwise and seek to refer to and rely upon citations in support of his proposition regarding no leave is required to be obtained.

4. An arguable case is made out by Mr. Shah for issuance of notice for final disposal.

5. Issue notice to the Respondents made returnable on 07.05.2024. Mr. Sawant, learned AGP waives service on behalf of Respondent Nos. 6 to 8. Humdast permitted. In addition to Court's notice, Petitioners are directed to serve copy of the Petition along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

6. After receiving the notice, Respondents to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Petitioners.

7. Respondents are directed to remain present either themselves or through their Advocate on the next adjourned date. It is made clear that if Respondents remain absent despite service on the next

adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of the Respondents.

8. Stand over to **7th May, 2024** before the regular Court.

Amberkar

[MILIND N. JADHAV, J.]

RAVINDRA
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AMBERKAR

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by RAVINDRA
MOHAN
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Date:
2024.04.23
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