



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18617 OF 2024

Mohmad Daus Sahebrao Kaulat Koti and Anr. ... Petitioners.
Versus
The State of Maharashtra and Ors. ... Respondents.

Mr. Patil i/by Mr.Amol Mhatre, for the Petitioners.
Ms. Savira R. Crasto, AGP for Respondent Nos.1 to 4-State.

Coram : Sharmila U. Deshmukh, J.
Date : December 14, 2024

P. C.:

1. By this Petition, the challenge is to the order dated 7th October, 2024 passed by the Additional **Commissioner** in exercise of powers under Section 257 of the Maharashtra Land Revenue Code, 1966 (for short, "MLRC"), granting *status quo* to the order of the Collector dated 3rd October, 2024.

2. Mr. Patil, learned counsel appearing for the Petitioners would point out that an Application for permission under Section 36A of the MLRC was moved before the Collector by the **Respondent No.5** for permission to sell the subject land to the present Petitioners. Subsequent thereto, reports were called from the Tahsildar and the reports were forwarded by the Collector for

approval of the State Government in accordance with Section 36A(1)(b). He submits that after following the requisite procedure, the approval of the State Government was granted on 28th August, 2024. He submits that the Revision Applicant i.e. the Respondent No.6 herein had objected to the permission and after hearing the objections, the approval of the State Government was granted. He submits that subsequent thereto, the Sale-Deed was executed between the Petitioners and the Respondent No.6 after exchange of consideration of about Rs.2 Crores. He submits that the Respondent No.6 despite being aware of the transfer of the property, preferred Revision Application before the Divisional Commissioner without impleading the present Petitioners. He submits that in those proceedings, an interim order of *status quo* has been passed. He submits that there was no challenge to the approval of the State Government pursuant to which the sanction was granted by the Collector and thus, there is jurisdictional error.

3. I have considered the submissions and perused the record.

4. By order of 7th October, 2024, upon an application of the **Respondent No.5**, the order of *status quo* has been passed without impleading the present Petitioners, who have acquired a vested rights in the property pursuant to the permission granted by the Collector after obtaining the approval of the State Government.

5. Perusal of the impugned order would indicate that no notices were issued to the Respondents therein which included the Respondent No.6. In any event, as the Respondent No.6 had alienated the property in favour of the Petitioners, the proceedings would not have been contested by him. The order of grant of *status quo* prejudices the vested rights of the present Petitioners. Upon perusal of the material which is produced on record, it is apparent that after following due procedure as contemplated under Section 36A of the MLRC the property came to be alienated in favour of the Petitioners. Without challenging the approval which has been granted by the State Government, only the order of grant of sanction of the Collector has been challenged. *Prima facie*, it appears that the Additional Commissioner could not have entertained the challenge against the order of the Collector without the approval of the State Government being set aside which was not within the jurisdiction of the Additional Commissioner.

6. Considering that the Petitioners were not impleaded as party to the Revision and ex-parte order of *status quo* came to be passed in the proceedings and the Revision is still pending, in my view, the appropriate course would be to remit the Petitioners to file an appropriate application before the Additional Commissioner for being impleaded as a party and for seeking vacating the *status*

quo order.

7. Considering the discussion above, as apparently the Petitioners have acquired an vested right in the property and without notice to them, the order of *status quo* has been passed resulting in not only prejudicing their right but also violation of the principles of natural justice, the impugned order dated 7th October, 2024 is stayed for a period of four weeks to enable the Petitioners to file an appropriate application before the Revisional Authority. Mr. Patil gives an assurance that for a period of four weeks, the Petitioners will not create any third party rights in the said property.

8. In light of the above, the impugned order dated 7th October, 2024 is stayed for a period of four weeks with liberty to the Petitioners to file an appropriate application before the Additional Commissioner for being impleaded as a party and for vacating the order of interim stay. The Additional Commissioner to decide the said application in light of the above observations made in the present order.

9. Petition is disposed of in the above terms.

[Sharmila U. Deshmukh, J.]

(Corrected pursuant to the Speaking to the Minutes of the order dated 18.12.2024)