



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3464 OF 2021

Ramdas S/o. Baliram Modak,
Aged about 75 years, Occupation :
Retired and Agriculturist,
R/o. Plot No.112, Misal Layout,
Motha Indora, Nagpur.

.... **PETITIONER.**

// **VERSUS** //

1. The Tahsildar, Hinganghat,
Distt. Wardha.
2. Vittal S/o. Bhaurao Bhoyar,
Age : 65 years, Occu.: Owner,
R/o. Gadegaon, Post. Kangaon,
Taluka – Hinganghat, Dist. Wardha.
3. Smt. Pratibha Ganesh Meshram,
Age : 32 years, Occu. : Labour,
R/o. Pari, Tahsil : Hinganghat,
Dist. Wardha.
4. Shri Vittal S/o. Bhaduji Meshram
Age : 60 years, Occupation : Nil,
5. Sau. Nirmala S/o. Vittal Meshram,
Age : 55 years, Occu.: Household,
R/o. Both (i.e. Respondent No. 4 and 5)
Rohankheda, Post : Kangaon, Taluka :
Hinganghat, Dist. Wardha.

.... **RESPONDENTS.**

Shri Mahesh Rai, Advocate for Petitioner.
Shri C.A.Lokhande, A.G.P. for Respondent No.1.
Shri Raghav Bhandakkar, Advocate for Respondent No.2.
Shri S.G.Malode, Advocate for Respondent Nos. 4 & 5.

CORAM : **ANIL S. KILOR, J.**
DATED : **JANUARY 17, 2024**

ORAL JUDGMENT :

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.
3. The order of attachment of the property of the petitioner issued by the Naib Tahsildar, Hinganghat on 09/10/2018 is under challenge in this writ petition.
4. The respondent Nos. 4 and 5 filed a proceeding before the Labour Court for grant of compensation under the Workmen's Compensation Act, 1923 (hereinafter referred to as "the Act of 1923") which came to be allowed vide judgment and order dated 15/07/2016 and thereby the Labour Court held the respondent No.2 liable to pay Rs.6,23,940/- along with interest from the date of accident i.e. 20/01/2013 till the date of realization to the respondent Nos. 3 to 5.
5. The petitioner on 16/05/2018 purchased 1.2 HR land bearing field Survey No.221 from the respondent No.2 and his sister Smt. Kusum Namdeorao Darne.

6. Thereafter, the petitioner was served with the order of attachment under Rule 11 of the Maharashtra Realisation of Land Revenue Rules, 1967, which is impugned in the present writ petition, thereby attaching the land owned by the respondent No.2 i.e. field Survey No.184, admeasuring 4.56 HR and Survey No.221 admeasuring 1.2 HR.

7. As far as land field Survey No. 221 is concerned, on the date of issuance of the order of attachment, it was owned by the petitioner and without issuing any notice to the petitioner, the order of attachment of the property of the petitioner was issued.

8. There is no dispute that the sale deed was executed by the respondent No.2 and his sister in the name of the petitioner on 16/05/2018 and the title in respect of the field Survey No.221 was transferred in the name of the petitioner. As such, the respondent No.2 is no more owner of the said field. Admittedly, the notice of attachment is subsequent to the creation of title of the land in dispute in favour of the petitioner.

9. There is no order of payment of any amount of compensation for which the property has been attached against the petitioner, I am of the opinion that the property owned by the

petitioner cannot be attached for the satisfaction of the judgment and order dated 15/07/2016 passed by the Labour Court under the Act of 1923.

10. As far as field Survey No.184, which is owned by the respondent No.2 is concerned, there is no challenge raised to the attachment of the said land in this petition.

11. In that view of the matter, I am of the opinion that the present writ petition needs to be allowed to the extent field Survey No. 221, admeasuring 1.2 HR. Accordingly, I pass the following order:

- i) The Writ Petition is allowed.
- ii) The impugned order dated 09/10/2018 passed by the respondent No.1-Tahsildar, Hinganghat to the extent of field Survey No.221, is hereby quashed and set aside and the said land shall be removed from the execution proceeding bearing Misc. WCA No.42 of 2016.
- iii) The Tahsildar may proceed against the respondent No.2 as regards field Survey No.184.

The Writ Petition is **disposed of** accordingly. No order as to costs.

(ANIL S. KILOR, J)