



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

WRIT PETITION NO.127 of 2024

Smt. Nanda Vilas Mandalkar

vs.

The State of Maharashtra and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A. P. Wachasundar, Advocate for petitioner.

Ms N. P. Mehta, Additional Government Pleader for respondent no.1.

CORAM :- NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE :- 10th JANUARY 2024.

P.C.

Heard.

2. Based on title deed dated 26th September, 1990 the petitioner approached the respondent no.-2 NIT for grant of regularization under the Maharashtra Gunthewari Developments (Regulation, Upgradation and Control) Act, 2001 (for short, the Gunthewari Act) as the petitioner has purchased the aforesaid piece of land from the unauthorized layout.

3 It appears that the prayer of the petitioner for regularization is informed to have been not decided till this date.

4. By way of present petition based on the aforesaid title deed and the fact that the plot of the petitioner is not regularized and the respondent-NIT has not issued release letter to that effect has approached this Court for issuance of directions against the respondent no.2, a Statutory Body, respondent no.1-State and the respondent no.3- a private developer for initiation of acquisition proceedings and the payment of compensation.

5. Apart from the initiation of acquisition proceedings, it is also claimed that the land of the petitioner stood vested with the respondent no.2-NIT, it may issue an order of allotment of alternate plot to the petitioner.

6. Based on the aforesaid factual matrix, it is claimed by Mr. Wachasundar, learned counsel appearing for the petitioner that the Gunthewari Act is a State statute. He submits that the petitioner is not certain as to whether the plot in question is reserved for some public amenity and in such an eventuality, once the petitioner's plot is not regularized by virtue of legal fiction and stood vested with NIT, the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, the Act of 2013) are attracted.

7. In this background, it is claimed that the directions be issued to the respondents.

8. We have considered the aforesaid submissions in the factual background as narrated above that the petitioner has purchased the property in question from the respondent no.4-Amar Sanjay Gruh Nirman Sanstha. Admittedly, the plot in question was purchased by the petitioner from an unauthorized layout and as such the petitioner has moved before the respondent no.2-NIT for issuance of release letter under the Gunthewari Act.

9. The fact remains that the owner of the said property moved a suit for partition and the said suit is informed to have been decreed. Against which, Second Appeal being S.A.No.166 of 1999 was rejected way back in 2000. The petitioner having noticed the same approached the Civil Court by filing Special Civil Suit bearing S.C.S. No. 1000 of 2003 seeking declaration that the aforesaid decree for partition is not binding on the petitioner and she being an absolute owner of the piece of land which is purchased by her vide sale deed dated 26th September, 1990. The said suit preferred by the petitioner came to be dismissed. As such, the claim of the petitioner on the partition decree is not binding on her came to be rejected. The aforesaid fact not only discloses that there exists dispute as regards the title of the petitioner to the property in question, but also it was for the petitioner to demonstrate that the land of the petitioner is put to use by the respondent nos. 1 and 2 for any public purpose.

10. In response to the Court's query Mr. Wachasundar, learned counsel for the petitioner, submits that he is not certain as to whether the land of the petitioner is reserved or sought to be used for any public purpose.

11. In such an eventuality, in our opinion, there is no basis to justify the claim of the petitioner for issuing directions for initiation of acquisition proceedings under the provisions of the Act of 2013.

12. That being so, the petition being devoid of merits stands dismissed. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.