



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

Writ Petition No. 6815 of 2019

[Union Bank of India, Mumbai and Branch at Gondia through its
authorized Officer Shri Anil Barapatre ..vs.. State of Maharashtra
through its Secretary, Ministry of Finance and Revenue and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. D. Ingole, Advocate for the petitioner
Mr. S. B. Bissa, AGP for respondent nos. 1 to 4
Mr. S. P. Bhandarkar, Advocate for respondent no. 6
Mr. Anand L. Walaskar, Respondent no. 12 in person

CORAM : ANIL L. PANSARE J.

DATED : 24-03-2025

Heard.

2. The petition was disposed of vide order dated 14-8-2024. The challenge was to order dated 25-4-2019 passed by respondent no. 3 – Sub Divisional Officer (SDO), Gondia in Revenue Case No. 01/MRC-81/2018-19, which was quashed and set aside with the directions to respondent no.3 to release the land under question along with structures standing thereon. All concerned were directed to proceed thereafter in terms of order dated 24-3-2017 passed by respondent no. 2 - Collector, Gondia.

3. Since some irregularities were noticed in dealing with the land under question, which according to successor of respondent no. 3, was not transferable as the land was belonging to Forest Department. At the same time, since it was also noticed that respondent no. 3 could not have reviewed order passed by his predecessor, notice came to be issued to respondent no. 12, who had passed impugned order and along with notice, he was directed to pay costs of Rs. 1,00,000/- to the petitioner for the conduct noted in the order dated 14-8-2024.

4. The parties herein thereafter filed additional affidavits, reply to the affidavits etc. to deal with various issues.

5. Having heard both sides and having gone through the material placed before me, what transpires is that respondent no. 6 had encroached upon land admeasuring 0.61 HR out of about 7 HR in Survey No. 385/1. He paid penalty charges for having unauthorizedly occupied the land. Thereafter respondent no. 6 had applied for occupancy of the land, which was granted in the year 1989 by directing respondent no. 6 to pay Rs. 20,733/- as occupancy charges. The said occupancy was said to be approved in terms of Section 36(4) of the Maharashtra Land Revenue Code, 1966.

6. Respondent no. 6 then obtained loan by mortgaging this property with Punjab National Bank with prior approval of the then respondent no. 3, who approved the mortgage vide communication dated 23-4-2008 stating therein that permission of SDO is not required for mortgaging the land as per Circular issued by the Government dated 17-7-1990. It appears that petitioner – bank thereafter took over the loan from Punjab National Bank at the request of respondent no. 6. It further appears that respondent no. 6 failed to repay the loan, therefore, the petitioner approached Debt Recovery Tribunal for recovery of loan. The District Magistrate passed order under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act') on 24-3-2017.

7. The petitioner – bank in terms of order dated 24-3-2017 was all set to take possession of the land, however, prior thereto, respondent no. 12 holding office of respondent no. 3 recalled order dated 23-4-2008 stating therein that the land was belonging to Forest Department and was a non-

transferable land. The said order came to be challenged in the present petition and the order was set aside as stated earlier.

8. During the course of enquiry in present matter, a committee consisting of the Collector, Gondia, Deputy Director of Land Records and Principal Chief Conservator of Forests was constituted to verify the issue involved in the matter. The committee filed report dated 22-1-2025 stating therein that the provisions of the Forest (Conservation) Act, 1980 are applicable to the land under question and, therefore, is a non- transferable land.

9. In response to report, the parties have filed their affidavits. Learned counsel for respondent no. 6 submits that land bearing Survey No. 385/1 was huge plot of land admeasuring around 7 HR. Various people have encroached upon the said land. The revenue authorities have allotted lands to various persons upon requests so made. One of them is respondent no. 6. The learned counsel further submits that none of the lands so allotted was taken back by the Forest Department or revenue authorities till today.

10. In response to this, respondent no. 12 Mr. Anant Laxmanrao Walaskar, who is present before the Court, submits that out of the said land, land admeasuring 6.57 HR which was unauthorizedly occupied and treated as slum was regularized in the year 2019 under the scheme floated by the Government of Maharashtra. He further submits that out of the remaining land, land admeasuring 0.5 HR except land occupied by respondent no. 6 is vacant and, therefore, the land occupied by respondent no. 6 was not part of regularization.

11. The sum and substance of the above discussion is that respondent no. 6 had occupied the land under question. He applied for regularization/occupation of the land. Then respondent no. 3 approved the occupancy of

land and further granted permission to mortgage the same with Punjab National Bank. The petitioner, in turn, took over the loan granted to respondent no. 6 by Punjab National Bank. Respondent no. 6 failed to repay the loan and, therefore, petitioner initiated proceedings under the provisions of the SARFAESI Act and the District Magistrate passed order under Section 14. The petitioner made an attempt to execute the order, however, prior thereto, successor of respondent no. 3 i.e. respondent no. 12 recalled the order, which has been impugned herein. This Court, on 14-8-2024, quashed and set aside the order passed by respondent no. 3 with the directions to proceed in terms of order dated 24-3-2017 passed by the Collector, Gondia under the provisions of the SARFAESI Act.

12. In the circumstances and considering the peculiar nature of dispute, the Collector, Gondia shall take appropriate decision in the matter within eight weeks from today and till the said period, order dated 24-3-2017 shall stand stayed. The Collector shall, before taking any decision, hear all the parties to the dispute including respondent no. 12 Mr. Anant Laxmanrao Walaskar.

13. Considering above, though Mr. Anant Laxmanrao Walaskar, the successor of respondent no. 3 has passed order dated 25-4-2019 without jurisdiction, since he had reviewed order passed by his predecessor, however, considering his intention to protect the land, which according to him, is a non-transferable land, the order imposing costs of Rs. 1,00,000/- upon him is recalled.

14. With the above observations, the stay granted to order dated 14-8-2024 stands vacated. The matter stands closed.

(Anil L. Pansare, J.)