



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

21 CRIMINAL WRIT PETITION NO. 945 OF 2022

GUJABAI W/O. DADARAO SURYAWANSHI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. S. R. Bagal h/f Gadegaonkar B. N.
APP for Respondent/s-State : Mr. S. M. Ganachari.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 01.04.2025

PER COURT :-

1. The petitioner is challenging concurrent findings of facts recorded under Section 145 of Criminal Procedure Code.

2. Learned counsel for the petitioner submits that petitioner was the owner of the plot in question but she was not made party to the proceedings and impugned orders are violative of principles of natural justice. He would submit that the possession of the plot in question has been taken for indefinite period which is perverse and arbitrary. It is further submitted that its grave error of jurisdiction to dispossess the petitioner by resorting to Section 145. It is further submitted that application was submitted by the Sarpanch of the Gam Panchayat which was entertained under Section 145 of the

Code. Both the authorities below failed to appreciate that the petitioner had purchased the plot in question and without recording any finding regarding possession, impugned orders were passed which is patent illegality.

3. Per contra, learned APP supports the impugned orders. He would submit that petitioner had filed Criminal Revision No.11 of 2017 challenging order dated 20.12.2016 and therefore, her grievance that orders were against principles of natural justice cannot be entertained. It is submitted that the report was called for from the competent authority and thereafter the trial authority passed the order. After following due procedure of law, both impugned orders were passed, which were within four corners of law.

4. Having heard both sides what emerges is that the dispute is in respect of a plot of 56.5 x 86.5, situated in Gut No.245 at village Pandurni, Taluka Mukhed, District Nanded. The petitioner claims to have purchased the plot on 15.09.1992 from Motiram Shankar Suryawanshi and since then, she is claiming possession over it. It is the case of respondents that plot No.245 was acquired in 1974-75 by the Government from Motiram Shankar Suryawanshi and part of it was utilized for the housing scheme for poor and needy

villagers. The plot in question was in possession of village Panchayat. Petitioner's husband Dadaro Kerba Suryawanshi was Sarpanch and taking disadvantage of his position, he had grabbed the plot.

5. The proceeding under Section 145 was initiated by respondent Nos.2 to 4 against respondent Nos.5 to 7. If Gujabai was the owner, she could have intervened in the proceedings before Executive Magistrate, Mukhed. Her husband and son were facing the proceedings. She was fence sitter. After impugned order dated 20.12.2016, she preferred revision before learned Sessions Judge. After hearing all the parties and by reasoned order, revision was dismissed. I am not inclined to accept the submissions of learned counsel that impugned orders are against principles of natural justice and petitioner was not heard.

6. Petitioner claims to have purchased plot in question. But, it was not by any registered document. It reveals from record that land of Mr. Motiram Shankar Suryawanshi was acquired in 1974-75 and Gut No.245 was part of it. In all probabilities, the sale deed executed in favour of the petitioner was not registered as vendor had no title. The claim of the petitioner of title appears to be meritless, *prima facie*.

7. The trial authority before passing order called for report of Sub Divisional Officer, Mukhed. After conducting inquiry on 22.09.2016, the report was submitted disclosing that there was only heap of stones at the spot and there were no tangible evidence for the possession. Thereafter, trial authority passed order on 20.12.2016 holding that there was possibility of breach of peace and therefore plot in question was required to be taken in possession of Government. I find that after conducting objective scrutiny order was passed and the satisfaction arrived at by the Authority cannot be said to be perverse or illegal.

8. The revisional authority considered all aspects of the matter and thereafter recorded findings for rejecting the revision application. I do not find that there is perversity or any illegality in arriving at the conclusion.

9. Both the authorities have recorded concurrent findings that there was likelihood of breach of peace and under the exigencies the orders were required to be passed. Though possession was directed to be taken, *prima facie* petitioner failed to show any title or iota of possession.

10. Writ petition is devoid of any substance and stands dismissed.

(SHAILESH P. BRAHME, J.)

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vmk/-