



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

903 CRA NO. 146 OF 2010
TUKARAM SHEKU GADHAGE AND ANR
VERSUS
THE STATE OF MAHARAHTRA AND ORS

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Advocate for Applicants : Mr. Jadhavar Shivprasad G.
AGP for Respondents: Mr. S. V. Hange.
Advocate for respective Respondents : Mr. V. D. Salunke & Mr.
H. P. Jadhav.

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CORAM : SHAILESH P. BRAHME, J.
DATE : 04.12.2025

PER COURT :-

1. Heard both sides finally.
2. Being aggrieved by order dated 02.07.2020 passed below Exh.76 rejecting the application filed in Regular Civil Suit No.19 of 2005, present revision is filed by original defendant Nos.3 and 4. Respondent Nos.3 to 5 are original plaintiffs in Regular Civil Suit No.19 of 2005.
3. The suit is filed for declaration of title in respect of part of Survey No.230 challenging sale certificate dated 26.07.2002 issued under Section 38E of the Hyderabad Tenancy Act. Appellants are the legal heirs of Sheku Dhadge who claimed to be tenant/purchaser of the suit land. A sale certificate was issued on 26.07.2020 under Section 38E of the Hyderabad Tenancy Act. It is specifically pleaded in the plaint that the

sale certificate is bad-in-law and it was sought to be challenged. It is further contended that order was passed on 03.09.2001 by Tahsildar. Being aggrieved, appeal was preferred before Deputy Collector. In paragraph No.9 of the plaint, it is further pleaded that present applicants secured certificate and order from the competent authority without following due procedure of law.

4. In the above backdrop, learned counsel for the applicants Mr. Jadhavar submits that civil court had no jurisdiction to entertain the suit challenging the sale certificate and orders passed by the competent court. It is further submitted that it would be abuse of process of law to approach civil court and simultaneously the Tribunal against order passed by the authorities. It is further submitted that after following due procedure of law sale certificate was issued which was further confirmed by Deputy Collector.

5. Learned counsel for the applicants would submit that due to bar under Section 99 of the Hyderabad Tenancy Act, civil court has no jurisdiction and his application ought to have been allowed. Lastly, it is submitted that no steps could be taken against the rejection of earlier application Exh.27 as the

financial condition of applicants was precarious, but that would not preclude the applicants in filing application Exh.76.

6. Per contra, Mr. Salunke submits that successive application for self-same relief cannot be entertained. On earlier occasion, application Exh.76 was filed which was rejected on 22.01.2010. The order was not challenged. The Trial Court has rightly taken cognizance of the situation in the impugned order and impugned order is legal.

7. I have carefully gone through plaint, application Exh.76 and the impugned order. Application Exh.76 did not disclose that on earlier occasion application Exh.27 was rejected. But say filed by the respondents discloses rejection of application Exh.27, 44 and 55. The revision memo preferred before this Court also does not disclose rejection of earlier application. It is foremost duty of the applicants to disclose material facts. No reasons are coming forth as to why successive application Exh.76 was preferred. This conduct of the applicants is objectionable.

8. Having suffered adjudication on selfsame objection, it is impermissible to re-agitate the issue. The suit is of 2005. Earlier application was rejected on 22.09.2007. Application Exh.76 was filed on 22.01.2010, after three years. Instead of

that applicants should have proceeded with the suit. Already the issues are framed by the Trial Court and suit for hearing.

In that view of the matter, I find that the rejection of application by impugned order is just and proper.

9. Learned counsel for the applicants has referred to various pronouncements especially *Sheshrao Gurappa Bolegave Vs. Shivram Amrutrao Patil and others [2005 (2) Mh.L.J. 1102]*, *Sau. Saraswatibai Trimbak Gaikwad Vs. Damodhar D. Motiwale and others [(2002) 4 SCC 481]*, *R. Ravindra Reddy and others Vs. H. Ramaiah Reddy and others [2010 (1) BCJ 370 (SC)]*. It would be open for the Trial Court to consider the objection while adjudicating the issue in that regard. I have already observed that successive application cannot be entertained. I find that no case is made out to cause any interference in the impugned order.

10. Civil Revision Application is rejected.

11. The Trial Court is requested to decide Regular Civil Suit No.19 of 2005 expeditiously.

(SHAILESH P. BRAHME, J.)

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