

MHAH230009382023



ORDER PASSED BELOW EXH.5 IN SPL.C.S.NO. 146/2023
(Ahilyabai Ramdas Kshirsagar Vs. State of Maharashtra Thr. Collector)

The plaintiff challenged notice issued by the Tehsildar, Shrigonda and the order passed by the said authority on 15/11/2021 for recovery on account of alleged royalty & penalty. By the said order sum of Rs.94,32,000/- is saddled as royalty and penalty for illegal acts attributed to the sole plaintiff according to the record of revenue authorities.

2. The main relief sought is that order of the Tehsildar dated 15/11/2021 be declared as “void ab-initio.” It is ascertained that while challenging the notice the plaintiff though came with pleading and prayer of perpetual injunction has paid court fees on the alleged amount of proposed recovery. So he is heard for the relief of temporary injunction until disposal of the suit. Though the learned Sub-Government Pleader appeared on behalf of the defendants he failed to submit written statement and also failed to file say to the temporary injunction application. In consequence, the suit proceeded without written statement and say.

3. In the suit filed last year, today the urgent relief is sought by the learned advocate for the plaintiff making submission that now the Tehsildar issued latest notice dated 13/06/2024, received by the plaintiff on 08/07/2024, directing to make compliance of recovery order or her land bearing Gut No.413 admeasuring 49 R shall be attached and further proceedings will be conducted. The copy of the notice is placed on record.

4. It is submitted by Shri. N.D.Gawali, learned advocate for the plaintiff that, panchnama prepared by the concerned Talathi of Ajnuj Village in respect of Gut No. 412. The panchnama though said to be prepared in presence of panchas, the true copy thereof does not bear signatures of any panchas. It is basic document upon which further proceedings before the Tehsildar appears to have been proceeded. In order of Tehsildar dated 15/11/2021, which is under challenge, Gut No.412 is mentioned. However, in the notice today placed on record, issued by Tehsildar, bears Gut No. 413 which land is in the name of the plaintiff is stated

5. It is also submitted that no such alleged soil is seized by the revenue authorities. Despite the said fact paper work of auction of the said soil/sand is done.

6. The pleadings and submissions are serious against the revenue authorities. The Government authorities availed enough time but chose not to file written statement and say on record. It otherwise shows that silence or non-filing of written statement and say helps the plaintiff to obtain the relief. However, the facts of the case and application for temporary injunction (Exh.5) remained unchallenged at this stage.

7. The order is passed by the Tehsildar in November 2021, subsequently notices have been issued, however, not acted upon even though there is no preventive order passed by this Court. It also shows that the revenue authorities in fact are unwilling to proceed in the manner in which the notices have been issued.

8. It is also seen from the record that in view of the discussion made in

preceding paragraphs the action of the revenue authority is not fair enough. The plaintiff has made out prima facie case. Balance of convenience is in plaintiff's favour. If interim relief is not granted certainly she will suffer irreparable loss. Secondly, if at all the property of the plaintiff is attached, there would be multiplicity of the proceedings. To avoid the same and in the interest of justice, I proceed to pass the following order :

The defendants are hereby temporarily restrained from proceeding further with recovery proceedings against the plaintiff namely, Ahilyabai Ramdas Kshirsagar and her land bearing Gut No. 413 admeasuring 49-R situated at Ajnuj village, Shrigonda Tehsil, in any manner, until disposal of the suit.

(Dictated and pronounced in open Court).

Date: 10/07/2024

Civil Judge Senior Division,
Shrigonda.