



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5238 OF 2021

Pushpa Ravindra Ughade & Anr. .. Petitioners

Versus

Dilip Kanhaiyalal Bhansali & Ors. .. Respondents

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- Mr. Vishwajeet Kapse a/w Mr. Dhananjay Kadam, Advocates for Petitioners
- Mr. Kishor Gaikwad, Advocate for Respondent Nos. 1 and 2
- Mr. A.I. Patel, Addl.G.P. a/w Mr. J.P. Patil, AGP for State

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 15, 2025

P. C.:

1. Heard Mr. Kapse, learned Advocate for Petitioners; Mr. Gaikwad, learned Advocate for Respondent Nos. 1 and 2 & Mr. Patel, learned AGP for State.

2. Present Petition seeks entitlement to the subject land. Subject land primarily and originally was Watan land. Application was made by Petitioner rather sole original Petitioner called Ms. Indubai to the Collector seeking sale permission. According to Mr. Gaikwad, said Application was preceded by a Esar Pavti namely earnest receipt executed and signed by Indubai for an amount of Rs. 30 Lakhs. Mr. Gaikwad would also submit that prior thereto Ms. Indubai had entered into two different agreements with two persons who were also to be settled by private Respondent and according to him private



Respondent has also paid off two other legal heirs of Ms. Indubai and thus, an amount of Rs. 69 Lakhs has been paid by him in lieu of purchase of the said land.

3. Mr. Kapse learned Advocate appearing for legal heirs of Ms. Indubai would submit that Application for sale permission by Collector was granted with a condition precedent contained in the order dated 28.03.2011 requiring the purchaser (private Respondent) to deposit amount of Rs. 1,38,25,000/- and only thereafter seek registration of the sale transaction document. To refute this submission, Mr. Gaikwad would submit that document was already registered between parties. Be that as it may, after a hiatus of 30 months, the said Ms. Indubai applied for recall of order dated 28.03.2011 before Collector since the condition precedent was not honoured by private Respondent. By order dated 30.07.2014, the order passed by Collector dated 28.03.2011 was recalled.

4. Private Respondent being aggrieved filed Appeal before Additional Commissioner which was dismissed on 17.07.2017. Resultantly private Respondent approached State in Revision proceedings wherein by virtue of the impugned order dated 30.12.2020, the order passed by Additional Commissioner was set aside.



5. Mr. Kapse, learned Advocate for Petitioners who are the descendants and successors in title of Ms. Indubai would submit that by virtue of impugned order, a direction is now given to private Respondent in 2020 to deposit the amount of Rs. 1.38 Crores in the bank account of Petitioners. He would submit that such a direction is *prima facie* unfair and arbitrary as also illegal since the amount of Rs. 1,38,25,000/- was the then prevailing market value in 2011 when sale permission was sought. Mr. Kapse would submit that the said Ms. Indubai left behind a Will and there are 8 legatees thereto to the estate of Ms. Indubai. He would however attempt to argue on merits of the impugned order passed by State in Revision proceedings. He would submit that one of the ground for setting aside order passed by Additional Commissioner as also order passed by Collector recalling the original order dated 28.03.2011 is that the Collector cannot recall his own order since it is hit by the provisions of Section 3 of the Bombay Inferior Village Watans Abolition Act, 1958 (for short "the said Act"). He would submit that at page No. 132 of the Petition, the second reason given in the impugned order is that prior to sale, consent was given by the predecessor in title of Petitioners for sale of the subject land.



6. *PER CONTRA*, Mr. Gaikwad would submit that only some legal heirs of deceased Ms. Indubai who expired in the interregnum in 2019 have carried forward the proceedings. He would rather attempt to argue on factual aspects. However when a question is directly put to him as to whether he accepts the order passed in Revision, he would submit that the answer is in the affirmative but on the aspect of showing his bonafides for deposit of amount of Rs. 1.38 Crores, he would submit that he needs to take instructions. Private Respondent will have to apprise the Court since if he is required to be heard by the Court, he needs to inform the Court whether he accepts the order and if he does so, then he has to show his bonafides by depositing the amount of Rs. 1.38 Crores as directed by the impugned order at least in the Court in order to be heard.

7. It is seen that the impugned order was passed in 2020. It emanates from the original order passed by the Collector in 2011. The fundamental issue before the Collector, *inter alia*, pertains to whether the market value of the subject land as stated in the registered sale agreement was the true and correct market value of the subject land for which permission was sought under Section 43 of the Maharashtra Land Revenue Code, 1966 by the Watandar which is a statutory requirement. There is a genesis and history for seeking such a sale permission. These permissions are sought so that a Watandar or



holder of such similar land is not exploited by the purchaser and he gets the correct market value under the concerned transaction / document.

8. *Prima facie* it is seen that even according to the ready reckoner market value of land according to Collector was in the region of Rs. 1.27 Crores as argued by Mr. Kapse as on 2011. He would submit that it is for this reason that the condition precedent was stated. He would submit that the defences which are now taken by private Respondent with respect to payment of Rs. 69 Lakhs as Najrana in the year 2011 in respect of subject land, payment of approximately Rs. 30 Lakhs paid to Ms. Indubai, further payments made to two other legal heirs of Ms. Indubai and thus in all he having paid the total amount paid in excess of Rs. 1.39 Crores would not entail any further liability on him cannot be countenanced. If that be the case, the impugned order unfortunately is completely silent on this aspect rather it should have been a ground pleaded in the proceedings before the *quasi judicial* Authority and Revision Authority. The argument that the amount of Rs. 69 Lakhs has been paid in 2011 as Najrana amount is also required to be confirmed by the private Respondent. These questions require an answer.



9. Mr. Gaikwad seeks time of the Court to take appropriate instructions and accordingly apprise the Court on the next adjourned date. Appropriate affidavit in reply shall be filed by Mr. Gaikwad.

10. Mr. Patel, learned AGP would submit that there are certain documents which evidence that the private Respondent has deposited substantial amounts which are contained in the compilation filed by the private Respondent. Government is directed to confirm the same and file appropriate affidavit as to how much amount private Respondent has deposited and for what purpose.

11. Let the affidavit in reply be filed within a period of two weeks from today. Rejoinder, if any, shall be filed within one week thereafter.

12. Stand over to **6th October, 2025.**

[MILIND N. JADHAV, J.]

Amberkar

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by RAVINDRA
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