



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5800 OF 2021
(Arising out of Special Leave Petition (Civil) No.32592 of 2018)

SULOCHANABAI SWAROPCHAND CHAWRE ...Appellant

VERSUS

THE ADDITIONAL COMMISSIONER,
AMRAVATI DIVISION, AMRAVATI & ORS. ...Respondents

ORDER

Leave granted.

This appeal challenges the order dated 27.08.2018 passed by the High Court of Bombay, Nagpur Bench at Nagpur in W.P. No.5115 of 2018.

The aforesaid writ petition had challenged the order dated 27.06.2018 passed by the Additional Commissioner, Amravati Division, Amravati in Appeal No.155/MRC-81/Wakodi/2015-16.

On the basis of spot inspection conducted by the Sub-Divisional Officer, Malkapur, a road with 6 meters width marked as ABCD in the map was directed to be created by reducing the area of western plot no.449 from the layout prepared by the appellant to enable the present respondent no.4 to go to his agricultural field.

The appeal preferred by the appellant challenging said order passed by the Additional Collector, Buldhana was rejected by the Additional Commissioner, Amravati Division, Amravati.

Being aggrieved, the matter was carried further by the appellant before the High Court by filing Writ petition No.5115 of 2018. Said writ petition having been dismissed, the appellant has preferred this appeal.

On 11.01.2019, while issuing notice, this Court directed the parties to maintain *status quo* until further orders.

Mr. Rana Mukherjee, learned Senior Advocate for the appellant invited our attention to the order dated 10.10.2018 passed by the Sub-Divisional Officer, Malkapur. While dealing with permission sought by the present respondent no.4 for converting his agricultural land to non-agricultural, the permission was refused on the ground that there was no approach road to the layout proposed by the respondent no.4. It was submitted that there was no easement of necessity nor any right existing in favour of respondent no.4 in relation to which any direction could be issued and access could be granted to respondent no.4. It was further submitted that while the matter raised important questions, the order passed by the High Court was very cryptic and did not deal with those questions.

At this stage, we may extract the relevant portion from the order passed by the High Court, which was to the following effect:

“2. I have gone through the impugned order. It has been concurrently found on facts of the case by the authorities below that the layout has been prepared by the petitioner by violating the conditions of the sanctioned order and considering the facts of this case. I do not see any serious mistake having been committed by the authorities below in recording the concurrent findings. Now, the position is that six meters wide road has also been created. As such, I find no merit in this petition. The petition stands dismissed. Rule is discharged with no order as to costs.”

Without going into the questions whether there was any easement or right in favour of respondent no.4 on the basis of which he could have demanded and could be granted access through the property of the appellant, in our view, the essential issues arising in the matter ought to have been considered by the High Court in more detail.

We, therefore, allow this appeal, set-aside the order passed by the High Court and remand the matter for fresh consideration.

Consequently, Writ Petition No.5115 of 2018 filed by the appellant stands restored to the file of the High Court to be disposed of as early as possible and preferably within six months from today.

Mr. Satyajit A. Desai, learned Advocate appearing for respondent no.4 submitted that during the pendency of the instant proceedings, his client had been enjoying access to his property from the road created through the property of the appellant. It was submitted that pending consideration by the High Court, the *status quo* be continued.

In the facts and circumstances of the case, *status quo* as obtaining on 11.01.2019 shall continue. However, respondent no.4 shall also not change the character of his property and if at all he has secured the permission for conversion of his agricultural land to non-agricultural, said permission shall not be worked or utilized till the matter is disposed by the High Court.

The appeal stands allowed in aforesaid terms, without any order as to costs.

.....J.
(UDAY UMESH LALIT)

.....J.
(S. RAVINDRA BHAT)

NEW DELHI,
SEPTEMBER 20, 2021.