



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.5796 OF 2016

1. M/s Electrosteel Casting Ltd.,
Having its Office at: 19, Camac
Street, Kolkata, 700 019 (West
Bengal) through its Joint General
Manager Shri Sanjay S/o Rash
Behari Mitra, aged about 48 years,
Address: Electrosteel Castings Ltd.,
G.K. Tower, 19, Camac Street,
Kolkata-70017.

... PETITIONER

VERSUS

1. Mohatarrunisa Begum w/o Azaz
Ahmad, aged about 80 years.
2. Izahar Ahmad s/o Azaz Ahmad,
aged about 57 years.
3. Azhar Ahmad s/o Azaz Ahmad,
aged about 53 years.
4. Nasrin Ahmad D/o Azaz Ahmad,
aged about 50 years.
5. Nuzat D/o Azaz Ahmad, aged about
43 years.
6. Afroz Ahmad s/o Azaz Ahmad, aged
about 35 years.

7. Nousheen D/o Azaz Ahmad, aged about 38 years.

Respondent No. 1 to 7 are R/o Panjeshah Street, Adilabad, Andhra Pradesh.

8. Nayeem-us Zafar S/o Amenuz-Zafar, aged about 38 years, R/o Parkota Street, Adilabad, Andhra Pradesh.

9. The Collector, Chandrapur,
Dist: Chandrapur

10. The Additional Commissioner,
Nagpur Division, Nagpur.

... RESPONDENTS

Shri C.S. Kaptan, Senior Advocate assisted by Shri R.S. Kalangiwale,
Advocate for petitioner
Shri C.B. Dharmadhikari, Advocate for respondent Nos.1 to 5, 7, 8
Shri N.S. Autkar, AGP for respondent Nos.9 and 10

CORAM : PRAVIN S. PATIL, J.

DATED : 01.09.2026

ORAL JUDGMENT

1. Heard this matter with valuable assistance of Senior Counsel Shri C.S. Kaptan assisted by Shri R.S. Kalangiwale, learned Counsel for petitioner and Shri C.B. Dharmadhikari,

learned Counsel for respondents.

2. In the present matter, dispute is revolving around Section 34 of the Maharashtra Land Revenue Code. Section 34 of the Maharashtra Land Revenue Code reads as under:

“34. Disposal of intestate occupancies.

(1) If an occupant dies intestate and without known heirs, the Collector shall take possession of his occupancy and may lease it for a period of one year at a time.

(2) If within three years of the date on which the Collector takes possession of the occupancy, any claimant applies for the occupancy, being restored to him, the Collector may, after such enquiry as he thinks fit, place such claimant in possession of the occupancy or reject his claim.

(3) The order of the Collector under sub-section (2) shall not be subject to appeal or revision but any person whose claim is rejected under sub-section (2) may, within one year from the date of the communication of the order of the Collector, file a suit to establish his title, and if such suit is filed the Collector shall continue to lease out the land as provided in sub-section (2), till the final decision of the suit.

(4) If no claimant appears within three years from the date on which the Collector took possession of the occupancy or if a claimant whose claim has been rejected under sub-section (2) does not file a suit within one year

as provided in sub-section (3), the collector may sell the right of the deceased occupant in the occupancy by auction.

(5) Notwithstanding anything contained in any law for the time being in force, a claimant, who establishes his title to the occupancy which has been dealt with in accordance with the provisions of this Section, shall be entitled only to the rents payable under sub-section (1) and the sale proceeds realised under sub-section (4), less all sums due on the occupancy on account of land revenue and the expenses of management and sale.”

3. It is the case of the petitioner that initially M/s Jayaram Minerals a partnership firm filed an application under Rule 9(1) of the Mineral Concession Rules, 1960 for prospecting licence to the Government of Maharashtra, intending to prospect Dolomite from the lands situated at Survey Nos. 54, 55, 56, 57, 75, 76, 77, 78, 79, 80, 81, 82, 84, 86, and 87, situated in Govindpur, Taluka Korpana, District Chandrapur. The State Government accordingly sanctioned the mining lease for a period of 30 years to the said Company, which included Survey No. 75, area admeasuring 8.29 hectares, which according to respondent is owned by them. It is also seen from the record that on

17.06.2005, the Collector, by exercising the powers under Section 34 of the Maharashtra Land Revenue Code, 1960 (in short 'the MLR Code) has forfeited the land situated in Survey No. 75, admeasuring 8.29 hectares.

4. The contention of the petitioner is that after forfeiture of the land allotted to M/s Jayaram Minerals, on 12.02.2007, the Government of Maharashtra by exercising powers under Rule 37 of the Mineral Concession Rules accorded sanction to transfer of mining lease to the petitioner-Company and thereby petitioner-Company was created in respect of the land admeasuring 60.1 hectares, which includes the land in Survey No. 75 admeasuring 8.29 hectares.

5. The respondent Nos. 1 to 8, who were claiming to be the owners of land situated in Survey No. 75, vide Writ Petition No.1052 of 2012, challenged the order of Collector dated 17.06.2005 before this Court. This Court has decided the said writ petition by order dated 29.04.2013 and thereby quashed

and set aside the order dated 17.06.2005 by which the land was forfeited, and the Collector was directed that after considering the submission of the concerned parties, decide the question of forfeiture afresh within a period of eight weeks.

6. After the decision of this Court, the parties appeared before the Collector, Chandrapur. The Collector, Chandrapur, by his order dated 30.05.2013, decided the issue as directed by this Court and thereby hold that respondent Nos. 1 to 8 are not entitled for compensation in respect of Survey No. 75, Mouza Govindpur, Taluka Korpana, District Chandrapur, as they are not entitled for the claim of possession for want of valid succession documents and requisite authority. The respondent Nos. 1 to 8 were granted liberty to approach the Civil Court to file a suit for establishment of their title within a period of one year as provided under Section 34(3) of Maharashtra Land Revenue Code.

7. The said order of the Collector dated 30.05.2013

was challenged by respondent Nos. 1 to 8 by way of Writ Petition No.3712 of 2013 before this Court. However, same was withdrawn as respondent Nos. 1 to 8 have filed R.C.S. No. 72 of 2014 simultaneously for seeking legal heirship of deceased. This Court by order dated 18.04.2024 allowed to withdraw the petition.

8. In a Suit bearing R.C.S. No. 72 of 2014 for declaration and perpetual and mandatory injunction, the present petitioner was not made party. In the said suit, a declaration was sought that respondent Nos. 1 to 8 are the legal heirs of late Azaz Ahmad s/o Altaf Ahmad, and one of the respondent is a legal heir of Zinatunniza Begum, w/o Amenuz Zafar. The mandatory injunction was sought directing the Collector, Chandrapur to consider the plaintiff as legal heirs of deceased owners and to restore the entry in revenue records in pursuance to the order passed by this Court in Writ Petition No. 1052 of 2012, and not to treat the land in question as a Government land, and to restrain it from any transfer or disposal against the interest of

respondent Nos. 1 to 8. The perpetual injunction was sought restraining the petitioners from not considering respondent Nos. 1 to 8 as legal heirs of deceased owners of the land in question in any manner and in any matter permanently.

9. The said R.C.S. No. 72 of 2014 was finally decided by the Civil Court by its judgment dated 25.09.2014. The suit was partly decreed, and only declaration was granted that respondent Nos. 1 to 7 therein are the legal heirs of late Azaz Ahmad, s/o Altaf Ahmad, and respondent No. 8 is the legal heir of late Zinatunniza Begum, w/o Amenuz Zafar. The relief regarding grant of mandatory and perpetual injunction was rejected.

10. In the said proceeding, as the petitioners were not made a party to the said proceeding, they have preferred the appeal along with an application for grant of leave to challenge the said judgment and decree. The learned District Judge has granted the petitioner leave to file appeal, and accordingly, the

appeal was contested on merit. However, the learned District Judge, by the judgment dated 29.04.2022, by holding that the present petitioner was not a necessary party to the proceeding filed by respondent Nos. 1 to 8, dismissed the appeal.

11. The present petitioner against the order of the District Judge dated 29.04.2022, preferred the Second Appeal No. 130 of 2023 before this Court, and now the second appeal is pending on the file of this Court.

12. In the meantime, after the judgment of the Trial Court, respondent Nos. 1 to 8, in pursuance of the judgment of the Civil Court in R.C.S. No. 72 of 2014, filed the proceeding before the Collector for correction of the mutation entries. The Collector, on the basis of the decision of the Civil Court, has corrected the mutation entry in favour of respondent Nos. 1 to 8 by order dated 01.04.2015. After the order of the Collector, the petitioner has preferred a review application before the Collector stating that the order passed by him is not in consonance with

Section 34 of the MLR Code. According to them, unless the suit is filed by respondent Nos. 1 to 8 to establish their title, and any decision passed therein, merely on the basis as a successor of the deceased, the revenue entries cannot be corrected. However, this contention of the petitioner was rejected by the Collector in review application also, and thereby the review application filed by the petitioner was rejected by order dated 12.02.2016.

13. Against the order of the Collector dated 01.04.2015, by which the application of respondent Nos. 1 to 8 was allowed, and the order of review dated 12.02.2016, by which the review application was rejected, the petitioner has preferred the statutory appeal before the Additional Commissioner, Nagpur vide Appeal No. 1/LND-26/2015-16 along with application for condonation of delay on 25.04.2016.

14. The learned Commissioner, without issuing any notices on the respondent by the impugned order dated 27.04.2016, by holding that the Collector has rightly considered

all the facts in detail, the appeal filed by the petitioner, along with the application for condonation of delay, was rejected. The learned Commissioner did not consider various grounds raised by the petitioner in his appeal memo, and in a cryptic manner decided the appeal. In the background of above factual position, the petitioner approached before this Court in the matter.

15. The main submission of the petitioner in the present case that after the order of forfeiture of land by the order of the Collector dated 30.05.2013, respondent Nos. 1 to 8 were specifically directed to file the proceeding for establishment of title on the land in question within a period of one year. However, the said proceedings were not filed by respondent Nos. 1 to 8 within a period of one year and directly approached to the Collector. In the background of this factual position, the Collector committed a manifest error by correcting the revenue entries in favour of respondent Nos. 1 to 8 in absence of the fact that they established their title over the suit field by the judgment of any competent Court of law. This material issue was also pointed out

in review application but same was also not considered. The learned Commissioner being an appellant authority was least expected to call the record and after perusal of record and by applying his judicial mind passed the order, but in present case in most unlawful manner decided the appeal. Impugned order is further cryptic in nature and shows non application of mind while deciding the appeal.

16. The respondent Nos. 1 to 8 who have strongly defended the order of Commissioner stated that after the judgment delivered by this Court in Writ Petition No. 1052 of 2012 decided on 29.04.2013, it was expected from the Collector to pass a specific order of forfeiture of the land. However, the Collector, by the impugned order dated 30.05.2013, did not pass the specific order of forfeiture of land, and therefore, considering this aspect of the matter, the Collector and the Commissioner, who have passed this order, is correct and legal in the matter.

17. In the present case, though the order of the Collector

dated 30.05.2013 is not happily worded, but the fact is that after the direction issued by this Court dated 29.04.2013 in Writ Petition No. 1052 of 2012, the matter was taken up by the Collector to decide the controversy. He has invoked the powers under Section 34(2) and specifically recorded the finding that the possession of respondent Nos. 1 to 8 in respect of Survey No. 75 of Mouza Govindpur, Taluka Korpana, District Chandrapur, is denied, as they are not entitled for the claim of possession of the land. And further, liberty was granted to them to file a suit for establishment of title within a period of one year as per provision of Section 34(3) of the MLR Code. Therefore, considering this finding of the Collector, only conclusion can be drawn that he has exercised the powers under Section 34 of the MLR Code in the matter.

18. In light of this factual position, it was expected from respondent Nos. 1 to 8 to file the suit for establishment of title immediately in the matter. However, it seems that the said suit came to be filed after getting declaration as a legal heir of the

deceased before the competent Civil Court. It is pointed out that the said Civil Suit bearing R.C.S. No. 225 of 2015 is now pending on the file of Civil Judge, Senior Division, Chandrapur. Respondent Nos. 1 to 8 are persecuting the suit and fate of the matter depend upon the final judgment in R.C.S. No. 225 of 2015. Therefore, filing of proceeding by respondent Nos. 1 to 8 before Collector are itself premature. So also, by entering the same and decided on merits by learned Collector is nothing but exceeding his jurisdiction. So also not considering all this factual position by learned Additional Commissioner is patently illegal in the matter.

19. In view of above, in my considered opinion, the order passed by the Collector dated 01.04.2015 and order on the application of review dated 12.02.2016, and further the order passed by the Additional Commissioner dated 27.04.2016, being bad in law, same are liable to be quashed and set aside. In view of above, the petition stands disposed of by passing the following order:

ORDER

- i) The Writ Petition is allowed.
- ii) The order dated 27.04.2016 passed by the Additional Commissioner, Nagpur Division in Appeal No.01/LND-26/2015-16 and the order dated 01.04.2015 passed by the Collector in Revenue Case No.10/LND-26/2012-13 are hereby quashed and set aside. Consequently, the earlier entry shall be restored in a revenue record.
- iii) It is made clear, the mutation entries of land bearing Survey No. 75 of Mouza Govindpur, Taluka Korpana, District Chandrapur, be corrected after the decision of Regular Civil Suit No. 225 of 2015.
- iv) All the issues which are raised in the petition are kept open to be raised in R.C.S. No. 225 of 2015.

20. The Writ Petition stands disposed of in above terms.
No order as to the costs.

(PRAVIN S. PATIL J.)

R.S. Sahare