

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

WRIT PETITION NO.1800 OF 2015

- 1) Shri Shrikant Bhanudas Joshi
Age: 57 Yrs., occu. Agril.
R/o Solegaon, Tq. Gangapur,
District Aurangabad.
- 2) Dattatraya Bhanudas Joshi,
Age: 55 Yrs., occu. Agril.
R/o Solegaon, Tq. Gangapur,
District Aurangabad.
- 3) Krushna Bhanudas Joshi,
age: 53 Yrs., occu. Agril.
R/o Solegaon, Tq. Gangapur,
District Aurangabad.
- 4) Sunil Prabhakar Joshi,
Age: 25 Yrs., occu. Agril.
R/o Solegaon, Tq. Gangapur,
District Aurangabad.

- PETITIONERS

VERSUS

- 1) The State of Maharashtra
Revenue Department,
Mantralaya, Mumbai,
Through the Secretary.
- 2) The Deputy Collector (Atiyat),
Vaijapur, Dist. Aurangabad.

- 3) The Tahsildar, Gangapur,
Tq. Gangapur,
Dist. Aurangabad. - RESPONDENTS

Mr. Ravindra Vitthal Gore, Advocate for Petitioner/s
Mr. SG Karlekar, AGP for Respondents.

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

DATE : 6th August, 2015.

ORAL JUDGMENT (PER:- R.M.BORDE, J.)

1) Heard. Rule. With the consent of the parties, the petition is taken up for final disposal at the admission stage.

2) The petitioners, who claim to be successors of Inamdar and in whose favour Virasat has been granted by the Deputy Collector (Atiyat), are seeking directions to Respondent Nos. 2 and 3 to handover possession of the Inam land bearing Gut No.88, admeasuring 5 acres, situated at Hanumantgaon and land Gut No. 40, situated at Solegaon, Tq. Gangapur, District Aurangabad.

3) The petitioners contend that their ancestors

were granted Muntakhab and as such, they are entitled to cultivate the land and render services to the Deothan. On demise of the ancestors of the petitioners, an application under Section 3 of The Hyderabad Atiyat Enquiries Act, 1952 (for short, the Act of 1852), was presented for grant of succession(Virasat) in the name of the petitioners. The application tendered by the petitioners was allowed by the Deputy Collector (Atiyat) on 10.02.2009 and Certificate of succession was directed to be issued. Thus, it is not a matter of dispute that the petitioners are the successors of the original Inamdar. The Deputy Collector (Atiyat) by order dated 5.4.2011, resumed possession of the lands for the reason that the petitioners, who are the successors, failed to render the services to the Deosthan. It has been observed in the order that the temple/Deosthan is not properly maintained and the successors of the Inamdar, i.e. present petitioners herein, have failed to carry out the work of repairs of the temple and they are not utilizing the income derived from the landed properties for maintaining the temple. The decision was taken by the Deputy Collector (Atiyat) to resume the possession of the

land and handover those lands on *Eksala Lavni* basis to the bidders, who would offer highest price/bid.

4) It is informed that even after publication of the notification in the village, there was no response to *Eksala Lavni* process and the landed properties were not auctioned in favour of any of the bidders and as such the State did not derive any income therefrom after resumption of the lands. The petitioners contend that the period specified in the order passed by the Deputy Collector (Atiyat) on 5.4.2011 has come to an end in the year 2013; and as such, they are entitled to claim possession of the subject property.

5) An affidavit in reply has been presented on behalf of the respondents by Tahsildar, Gangapur, wherein it has been stated that the efforts made by the Deputy Collector (Atiyat) to put the properties for auction have not yielded any results and as such, the property remained with the Government. It is further contended in the reply that the petitioners, who are the successors of the Inamdar, have failed to maintain the temple/Deosthan and carry out the

repairs thereof by utilizing the funds derived from the Inam properties.

6) If the State authorities are of the view that the successors of the Imamdar are not rendering services to the temple properly and they have failed to use the income derived from the inam properties allotted to the Inamdars in accordance with the terms contained in the Muntakhab, it would be open for the Deputy Collector (Atiyat) to take appropriate steps within contemplation of Section 5 of the Act of 1952. However, since the period specified in the order passed by the Deputy Collector (Atiyat) dated 5.4.2011 has come to an end, the petitioners, are entitled to seek directions to the State Government in respect of handing over possession of the Inam properties, which has been resumed under the order dated 5.4.2011. In this view of the matter, keeping open option of the State Government to take up necessary proceedings under Section 5 of the Act of 1952, if it deems necessary, it is directed to the Respondent/State to return back the subject properties, specified in clause (B) prayer clause of the petition to the petitioners, as expeditiously as

possible and preferably within a period of four weeks from today.

7) Rule is made absolute in the above terms.
There shall be no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(R.M.BORDE)
JUDGE

bdv/