

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.3536 OF 2008 IN
LETTERS PATENT APPEAL NO.8 OF 2004 IN
WRIT PETITION NO.2086 OF 1988

Chandrabhan s/o Ganpati Londhe
and others

Applicants

Versus

The State of Maharashtra & others

Respondents

Mr.Jain, advocate holding for Mrs.A.S. Rasal, advocate for applicants.

Mrs.V.A.Shinde, A.G.P. for Respondent No.1.

Mrs.M.A.Kulkarni, advocate for Respondents No.3 to 5.

CORAM : R.M.BORDE &

SUNIL P. DESHMUKH, JJ.

DATE : 12th February, 2015

PER COURT:

The applicants are praying for recalling the order passed by this Court on 28.02.2008 dismissing the appeal for want of prosecution.

Heard. For the reasons stated in the application, application deserves to be allowed and same is accordingly allowed. The order passed by this Court on 28.02.2008 dismissing the appeal for want of prosecution is recalled and the appeal is restored to its original number.

Civil Application is disposed of.

SUNIL P. DESHMUKH
JUDGE

R.M.BORDE
JUDGE

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PER COURT:

1 The appellants claim to be in possession over the service *inam* land governed by the *Hyderabad Atiyat* Inquiries Act, 1952. The appellants claim their possession on the basis of lease deed allegedly executed by the *Inamdar* for the period of 98 years. Pursuance to the complaint presented by Respondent No.2, inquiry was initiated by the Deputy Collector, *Atiyat*, in respect of *Atiyat* property and after noticing that the *Inamdar* is not looking after the property in proper manner, the Deputy Collector issued directions that the property be taken under Government supervision and same shall be allotted on lease basis for the period of one year ('*ek saal laoni*' basis).

2 The order passed by the Deputy Collector, *Atiyat*, was

objected by the appellants by presenting Writ Petition No.2086 of 1998, which came to be dismissed by the learned Single Judge, by order dated 5th November, 2003. The learned Single Judge, while dismissing the writ petition, has observed that there is a specific prohibition under the *Hyderabad Atiyat* Inquiries Act, 1952, in respect of creation of third party interest over the *Atiyat* properties governed by the *Hyderabad Atiyat* Inquiries Act, 1952.

3 It is not disputed that the agricultural land is a service *inam* granted in favour of the *Inamdar*. The appellants claim entitlement through the *Inamdar*. Although it is contended that they are put in possession on the basis of lease deed executed by the *Inamdar* for the period of 98 years, the lease document is not forthcoming. Apart from this, under the provisions of *Hyderabad Atiyat* Inquiries Act, 1952, the appellants cannot claim any entitlement in respect of service *inam* lands. The view taken by the learned Single Judge, while dismissing the writ petition, cannot be termed as erroneous or perverse. Letters Patent Appeal is devoid of substance.

4 Hence, Letters Patent Appeal stands dismissed. Pending Civil Application, if any, stands dismissed.

SUNIL P. DESHMUKH
JUDGE

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R.M.BORDE
JUDGE