

(1)

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

**WRIT PETITION NO.6025 OF 2014**

Sikandar Ibrahim since

Deceased through Legal Representatives.

- 1 Sabdar Sikandar Shaikh Musalman  
Age : 39 years, Occu. Business.
- 2 Amin Sikandar Shaikh Musalman  
Age : 30 years, Occu. Business.
- 3 Smt. Sakinabi Sikandar Shaikh Musalman  
Age : 30 years, Occu. Household.
- 4 Smt. Abidabi Sikandar Shaikh Musalman  
Age : 50 years, Occu. Household.
- 5 Gulab Sikandar Shaikh Musalman  
Age : 58 years, Occu. Business.
- 6 Taslim Ibrahim Shaikh Musalman  
Age : 52 years, Occu. Business.
- 7 Rahim Ibrahim Shaikh Musalman  
Age : 52 years, Occu. Business.

All R/o. Ibrahim Mohalla,  
Shindkheda, Tal. Shindkheda,  
Dist. Dhule.

...Petitioners

**Versus**

- 1 Jalal Shaikh Rajjak  
Age : 58 years, Occu. Business.
- 2 Ashik Shaikh Abdul  
Age : 36 years, Occu. Business.
- 3 Ajij Shaikh Rashid  
Age : 58 years, Occu. Business.

(2)

All R/o. Ibrahim Hohalla,  
Shindkheda, Tal. Shindkheda,  
Dist. Dhule.

4        The Maharashtra State,  
          Through its Minister  
          Revenue Department,  
          Maharashtra State, Mantralaya,  
          Mumbai – 32.

...Respondents

...

Mr M. V. Bhamre, Advocate for Petitioners.  
Mr S. P. Brahme, Advocate for Respondent No. 1 to 3.  
Mr A.P. Basarkar, A.G.P. for Respondent No. 4

**CORAM : N.W. SAMBRE, J.****DATE : 23<sup>rd</sup> November, 2015****ORAL ORDER :**

By the instant petition, the petitioners challenge the order dated 3<sup>rd</sup> March, 2014, passed by the Minister for State (Revenue), in Appeal No.2013/PK.293/J-6, annexure "F" - page 34 of the petition.

2. According to the learned Counsel appearing on behalf of the petitioners, the contents of the impugned order are identical to that of the one passed on 31<sup>st</sup> March, 2012, by the Deputy Director of Land Records, Nashik Division, Nashik, against which the said appeal was preferred.

3. But for the operative part, i.e dismissing the appeal of the petitioners, rest of the contents are copied as it is by the said authority.

(3)

4. While opposing the petition, Mr Brahme, learned Counsel appearing on behalf of respondents no.1 to 3, would urge that the said aspect cannot be inferred as non application of mind, as according to him, the reasons might be similar to that of recorded in the order impugned in the appeal, as the appellate authority has upheld the order passed by the lower authority.

5. Learned Asstt. Govt. Pleader appearing on behalf of respondent no.4 supports the order of the State Government.

6. It is noticed that the Deputy Director of Land Records, by the order dated 31<sup>st</sup> March, 2012, has allowed the appeal preferred by the present respondents and thereafter the State Government endorsed the said view and dismissed the appeal of the present petitioner. While doing so, the learned Minister for State, has in verbatim copied the contents of the order passed by the Deputy Director of Land Records, including commas, full stops, etc.

7. In my opinion, same cannot be termed as application of mind by the appellate authority. The appellate authority is required to consider the appeal afresh and find out whether the order under appeal has been appropriately passed upon taking into account the claim put-forth and the documentary or other evidence as brought on record, which is conspicuously absent in the order impugned.

(4)

8. In the result, Writ Petition stands allowed . The order dated 3<sup>rd</sup> March, 2014 (Exh. "F" to the petition) is set aside. Appeal No.2013/PK.293/J-6, stands restored to the file of the State Government. In the circumstances, there shall be no order as to costs.

**(N.W. SAMBRE, J.)**

amj