

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

LPA ST.NO.13145/2012

940 LETTERS PATENT APPEAL STAMP NO.13145/2012
in
WRIT PETITION NO.3553 OF 1991

SHRI KRUSHA JAYRAM CHAUDHARI DIED THR LRS SANGITA VIJAY
CHAUDHARI AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Applicants : Mr.Patil Vijay B.
AGP for Respondent State: Mr.S.G.Nandedkar
Advocate for respondent no.2. : Mr.K.D.Bade Patil For R/2

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CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: July 03, 2015

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PER COURT :-

1. The appellant is challenging the decision rendered by the learned Single Judge dismissing the writ petition presented by the appellant transferee of a land from tribal transferor.

2. It is admitted that the land that has been purchased is approximately 1 Hectare and 28 Are from a tribal transferor without securing permission. Such a transfer, being hit by Section 3 of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1975, on an application by the Tribal transferor, the land was directed to be restored to him by the Tehsildar by order dated 22nd December, 1988. The proceedings were initiated before the Tehsildar by the transferor in April, 1975. The appeal presented by the transferee came to be dismissed on 5.7.1991. The

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challenge raised in Writ Petition No.212/1983 has also been turned down by the learned Single Judge on 12th March, 2010.

3. The transferee contends that there was no validation certificate placed on record and, as such, the claim of the tribal transferor ought not to have been considered.

4. Learned Single Judge dealing with the writ petition has observed that while effecting actual transfer, the Tehsildar shall ensure production of the verification of the caste certificate by the tribal transferor, and thereafter only, the actual transfer of the land shall be effected. The appellant transferee contends that the transferor did not depose about his willingness to pay the amount of compensation as determined by the Tehsildar, nor has expressed his willingness to cultivate the land personally. Referring to the judgment of the Maharashtra Revenue Tribunal, it is stated that the transferor declined to make such a declaration. However, on perusal of the proceedings, the orders of the Tehsildar as well as the Maharashtra Revenue Tribunal, it transpires that the transferor has actually deposed before the Tehsildar and has expressed his willingness to pay the amount of compensation, and also shown his readiness and willingness to cultivate the land. It was not at all required, in such circumstances, to make any further inquiry from the transferor by the learned Member of the Maharashtra Revenue Tribunal. Such an exercise by the Member of the Maharashtra

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Revenue Tribunal at the revisional stage is not within contemplation of law. Even otherwise, appropriate safeguards have been provided in the order passed by the Maharashtra Revenue Tribunal as well as learned Single Judge to ensure that the transferor produces validation certificate, and also tenders an undertaking that he would pay the compensation determined by the Tehsildar, and cultivate the land personally.

5. In view of above, the long drawn proceedings initiated in the year 1975, need not be continued and the tribal transferor shall be extended the benefits of the beneficial legislation expeditiously.

The Letters Patent Appeal is devoid of substance, and hence stands dismissed.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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