

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5878 OF 2013

Macchindra Rambhaji Sabde

Petitioner

Versus

The State of Maharashtra and others

Respondents

Mr.S.T. Shelke advocate for the petitioner

Mr. N.B. Patil, AGP for Respondents

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

Dated : 8th JULY, 2015.

PER COURT :-

1 Petitioner is praying for issuance of directions to the respondents to return the land to the extent of 22 acres 15 gunthas out of Gat No.21 situate in village Jalgaon, Tq. Rahata, district: Ahmednagar, as per the policy of the Government.

2 The petitioner contends that, the land originally belonged to Rambhaji Elam, father of the petitioner. Land was leased to Changdev Sugar Mills on 11.5.1940. During continuance of the lease, a deed of Assignment, in respect of authority to receive the rent, came to be executed in favour of one Mr. Ganesh Patwardhan. The petitioner, being legal heir of deceased Rambhaji tendered an application for restoration of the land back in view of the directions issued by the High Court while disposing of the Writ Petition No.2317 of 2006 and in furtherance of the policy framed by the State Government. Request of the petitioner has not been considered for the reason that, the name of the

father of the petitioner does not appear in the list of recipients of thoka/rent amount. Another ground is in respect of surname of the father of the petitioner. In the documents maintained by Changdev Sugar Mills, instead of recording surname of the father of the petitioner '*Sabde*', his caste '*Elam*' has been recorded. According to the petitioner, there is no dispute as regards identity of the person. It is also stated by the respondent State that, the father of the petitioner has executed a sale-deed, in respect of whole of the property in favour of Changdev Sugar Mills on 13.4.1954 and as such, the entitlement of the petitioner to claim the land back is questionable.

3 Since disputed questions are raised by the respondents, in exercise of extraordinary jurisdiction under article 226 of the Constitution of India, interference in the matter would not be proper.

4 Keeping option of the petitioner, to avail of alternate remedies, available in law for establishing his entitlement, open, writ petition is disposed of.

(P.R. BORA, J)

(R.M.BORDE, J)