

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

WRIT PETITION NO. 6493 OF 2010

Balasaheb S/o Karbhari Jadhav
and another

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

Shri S. B. Ghute, Advocate for Petitioners.

Shri G. K. Thigle, Addl.G.P. for Respondent Nos. 1 to 4.

Shri Shivaji T. Shelke, Advocate for the Respondent No. 5.

The Respondent No. 6 is served.

Shri R. N. Dhorde, Senior Counsel i/by Shri V. R. Dhorde,
Advocate for Respondent Nos. 7, 8, 10 to 14.

Shri Ashwin V. Hon, Advocate for the Respondent No. 9.

**CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, JJ.**

DATE : 25TH FEBRUARY, 2015.

PER COURT :

. Heard Mr. Ghute, the learned counsel for the petitioner, Mr. Dhorde, learned senior counsel for the respondent Nos. 7, 8 and 10 to 14, Mr. Hon, the learned counsel for the respondent No. 9, the learned Additional Government Pleader for respondent Nos. 1 to 4 and Mr. Shelke, the learned counsel for the respondent No. 5. It is manifest that, the petitioner has claimed following reliefs.

"B) To issue writ of Mandamus or any other Writ, order or directions in the like nature to direct the respondents/authorities to take initiatives to hand over the said land i. e. C.T.Survey No. 1935-A admeasuring 50-A, 33 Guntha situated at Kopergaon, Tq. Kopergaon, Dist. Ahmednagar to Zilla Parishad, Ahmednagar, within specific period and for that purpose issue necessary orders;

BB) To issue Writ of Mandamus or any other Writ or directions in the like nature to direct the respondent no. 5 to decide the representation/s dated 3.9.2010 and 9.10.2010 within stipulated period and for that purpose issue necessary orders;

C) To issue Writ of Mandamus or any other Writ, order or directions in the like nature to direct the respondents/authorities to initiate inquiry of the affairs of said trust and to submit report before this Hon'ble Court within stipulated period and for that purpose issue necessary orders;

CC) Pending hearing and final disposal of this Writ Petition, to direct the respondent no. 5 to decide the representation/s dated 3.9.2010 and 9.10.2010 within stipulated period and for that purpose issue necessary orders;

D) To issue Writ of Mandamus or any other Writ, order of directions in the like nature be pleased to direct the respondents no. 7 to 14 to deposit an amount as an arrears of revenue loss and to initiate an action against the persons who are found guilty to sustain loss to the Govt. due to steps initiated by the respondents no. 7 to 14 in respect of land C.T.S. No. 1935-A, admeasuring 50 A 33 G situated at Kopergaon, Tq. Kopergaon, Dist. Ahmednagar and for that purpose issue necessary orders;

DD) Grant ad-interim relief in terms of prayer clause-CC:

E) To issue Writ of Mandamus or any other Writ, order or directions in the like nature be pleased to direct an independent investigating agency i. e. the Central Bureau of Investigation to investigate the respondent Nos. 1 to 14 and to submit the report to this Hon'ble Court within stipulated period and for that purpose issue necessary orders;"

2. This Court from time to time had passed various orders asking for details. The learned Additional Government Pleader has filed on record the report submitted by the Assistant Charity Commissioner giving details about the trustees and other aspects as sought vide order dated 10.12.2014.

3. The State has filed affidavit in reply thereby putting forth its stand in para Nos. 12 and 13 and the affidavit in reply filed by the State through Sub Divisional Officer Shirdi reads as under :

"11. I say that the state is not party to the regular Civil Suit no. 699 of 1980. I further say that mere recording mutation entry in revenue record does not transfer the ownership rights.

12. I say and submit that presently land is used for following purposes.

In Sur No. 1935/A area 7Hr (approx) present use of land, Mahatma Gandhi Pradarashan Charitable trusts Administrative building,

exhibition area, cultural hall, meditation centre, staff quarter, commercial complex, khandoba temple, army boys hostel, college and diploma, veterinary training institute, forest department office, staff quarter, roads, open space etc..

In Sur. No. 1935/A area 1.00 Hr (approx) present use of lands road Kopargaon city to railway station kopargaon.

In Sur. No. 1935/A area 1.30 Hr (approx) present use of lands is Nagar-Manmad highway.

In Sur. No. 1935/A area 11.27 Hr (approx) present use of lands Agril crops-Wheat, Coconut, Chikoo, Sugarcane, Guava etc."

4. Considering the affidavit in reply filed by the respondent/State that necessary steps would be taken under the Maharashtra Land Revenue Code and in pursuant to the existing policy of the State. The major grievance of the petitioners stands redressed.

5. No doubt, the steps which the State is contemplating to take would be in accordance with law and the statute.

6. There is no impediment for the respondents to proceed in terms of the affidavit in reply filed by them. However, naturally steps to be taken would be in consonance with the legal provisions and by adhering to the principles of natural justice. If such steps are taken by the respondent/State, the affected party will have opportunity to put forth its stand and contention. The writ petition accordingly is disposed of, however, with no order as

to costs.

7. In view of the order passed above, earlier orders passed in this petition stand merged in the present order and would not survive. The amount deposited by the petitioner be refunded to the petitioner.

[V. L ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb. 15