

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

WRIT PETITION NO. 9110 OF 2014

Janardan s/o Bhujangrao Garje,
Age: 64 years, Occ: Pensioner,
Retired Police Officer, Govindwadi,
Majalgaon, Dist. Beed.

...Petitioner

versus

1. The State of Maharashtra,
Through the Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-32.
2. The Minister of State,
Revenue & Co-op. Textiles
Industries, Earth Quake
Re-habilitation, Mantralaya,
Mumbai-32.
3. Bapurao Laxman Gavli,
Age: 62 years, Occ: Agri.,
R/o. C/o. Babasaheb Kisan Pawar,
Datta Colony, Phule Chowk,
Majalgaon, Dist. Beed.
4. Eknath Ganpati Raut,
Age: 70 years, Occ: Agri.,
R/o. Kesapuri, Tq. Majalgaon,
Dist. Beed.
5. Yamunabai Eknath Raut,
Age: 64 years, Occ: Agri.,
R/o. As above.
6. Subhash Eknath Raut,
Age: 47 years,
Occ: & R/o. As above.
7. Arun Eknath Raut,
Age: 34 years,
Occ: & R/o. As above.
8. Smt. Ratnamala Ramesh Abhang,
Age: 36 years, Occ: Household,
R/o. Kesapuri, Tq. Majalgaon, Dist. Beed.

9. Shashikala Eknath Raut,
Age: 356 years, Occ: Household,
R/o. As above.
10. Mahananda Eknath Raut,
Age: 39 years, Occ and
R/o. As above.
11. Mainuddin Sayyododdin,
Age: 46 years, Occ: Agri.,
R/o. Kesapuri, Tq. Majalgaon,
Dist. Beed.

...Respondents

.....
Mr. Bhagwan S. Kudale, Advocate for petitioner.
Mr. D.R. Korde, A.G.P. for respondent/State.
Mr. S.K. Mathpati, Advocate h/f Mr. B.R. Kedar, Advocate for
respondent No.4.

.....

CORAM : N.W. SAMBRE, J.**DATE : 29TH APRIL, 2015****ORAL ORDER :**

The order passed by the State Government is questioned in the present petition in Appeal No.2013/Pr.Kr.52/J-7(A). The said order was passed in exercise of powers under Section 257 of the Maharashtra Land Revenue Code, 1966, whereby the appeal preferred by respondent No. 3 came to be allowed and the order passed by the Additional Commissioner, Aurangabad on 27/09/2012 in favour of present petitioner came to be set aside.

2. Mr. Kudale, learned Counsel for the petitioner would urge that the authority while passing the order impugned has lost

sight of the fact of placing on record written notes of arguments. He would further submits that the parties were never personally heard in the matter and the parties were called upon to place on record the written notes of arguments, on which the order is to be passed. The written notes of arguments which were filed by the petitioner on 25/08/2014 were not taken into account as is apparent from the observations in paragraph-1 of the order impugned.

3. Mr. Bhavthankar, learned Counsel for the respondent No. 3, while opposing the prayer submits that already the matter is subjudice before the competent civil Court at the behest of the present petitioner. He would urge that the present proceedings lack sanctity and as such, sought dismissal of the writ petition.

4. Mr. S.K. Mathpati holding for Mr. Kedar, learned Counsel for the respondent Nos. 4 to 10 submits that the petition is devoid of merit, as the order is passed on appreciation of the facts and evidence on record. He would further urge that the civil Court, who is seized with the matter to deal with the issue and as such, prayed for dismissal of the petition.

5. Perusal of the order passed by State Government on 01/09/2014 reflects that no personal hearing was granted to the

parties. The proceedings were decided based on written notes of arguments and the petitioner has produced copy of written notes of arguments before the State Government on 25/08/2014 along with acknowledgment thereto.

6. If the order impugned is perused, the written submissions made by the present petitioner are at all not taken into account by the State Government.

7. In view thereof, it would be appropriate to quash and set aside the order dated 01/09/2014 passed by the State Government being in violation of principles of natural justice. Accordingly, it is quashed and set aside.

8. The matter is remitted to the State Government for taking decision afresh on merit. It is expected of the State Government to decide the said appeal expeditiously, in any case within period of six months from today.

9. The writ petition stands allowed in above terms.

[N.W. SAMBRE, J.]