

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3034 OF 2014

Anandrao Ramchandra Atram & Ors. Vs. State of Maharashtra Revenue & Forest Deptt. & Ors.

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 Office Notes, Office Memoranda of Coram,
 appearances, Court orders or directions
 and Registrar's orders

Court's or Judge's Order

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Shri S. Y. Deopujari Adv for petitioners.
 Shri Kankale AGP for respondents 1 to 4.

CORAM: B. P. DHARMADHIKARI &
A.S.CHANDURKAR JJ.

DATED: 30th JANUARY, 2015.

Only question to be gone in the present matter is about right of petitioners to claim compensation in relation to their agricultural lands situated at mouza Yedlapur in Kelapur tahsil.

The petitioners claim that they are given said land under Madhya Pradesh Land Revenue Code and though they were shown as occupants Class II earlier, after coming into force of Maharashtra Land Revenue Code in 1966 they became occupants Class I. It is submitted that even if the petitioners are resume to be occupants Class II, they are entitled to compensation for their agricultural lands and cannot be denied it only because land is of State

Government.

Shri S. Y. Deopujari, learned counsel submits that reason for termination of lease is also incorrect and not available in law. According to him the lease deed executed way back in the year 1964 does not entitle respondents to resume back the lands even if same remained uncultivated.

He submits that till 1996-97 the lands were under cultivation and relied upon certificate issued by Agricultural Officer for that purpose. After issuance of the Notification dated 24.01.1997 as village and its area is shown as reserved forest, petitioners were not permitted to enter their land and cultivate it. He, therefore, submits that absence of cultivation after 1996-97 cannot be used to deny their dues to the petitioners.

Learned Assistant Government Pleader is relying upon reply affidavit as also the report of inquiry dated 17.08.1998. He pointed out that during inquiry it was found that lands were lying uncultivated for over 17 years i. e. from 1981 onwards. He further states that Tahsildar Kelapur conducted the inquiry and after giving opportunity to present petitioners filed the report. Now that report is attempted to be challenged for the first time after 16 years. He contends that as lands vests in Government, it is not necessary for

State Government to pay compensation. As the lands are lying fallow and have not been used for cultivation State Government has exercised its rights as owners and cancelled their lease. He therefore prays for dismissal of Writ Petition.

By way of abundant precaution he also invited attention to prayer clause in Writ Petition to show that there is no prayer to protect the possession.

The respondents have not come up before this Court with the stand that they have already cancelled the lease and have taken possession. The petitioners also are not claiming interim relief to protect their possession. Needless to mention that compensation or rehabilitation is possible only in accordance with provisions of law. The petitioners have to establish their rights to receive such compensation or then any other benefits flowing from compulsory acquisition of their houses and agricultural lands.

Interest of justice therefore can be met with by permitting petitioners to make suitable representation to respondent no. 2-Collector in this respect within a period of eight weeks from today. If said representation is made to Collector within 8 weeks, Collector shall consider it in accordance with the provisions of relevant Land Revenue Code and also relevant Land

Acquisition Legislation and/or Rehabilitation Scheme within further period of 12 weeks.

With these directions and keeping all rival contentions open we dispose of the petition. No costs.

JUDGE

JUDGE

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