

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6536 OF 2014

Ravidas s/o Late Kashinath Madavi

-vs-

Commissioner Nagpur Division, Nagpur & Ors.

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

Court's or Judge's Orders.

Shri A. Shelat, Advocate for petitioner.

Shri C. N. Adgokar, AGP for respondent Nos.1 to 3.

CORAM : A.S.CHANDURKAR, J.

DATE : JULY 20, 2015

Rule. Heard finally with consent of learned counsel for parties.

Challenge is to the orders passed in proceedings for forfeiture of the allotted land to the predecessor of the petitioners on the ground that there has been violation of terms of allotment under Rule-15(B) of the Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971.

Shri A. Shelat, the learned counsel for the petitioner submitted that the land in question came to be allotted to one Shri Kashinath Madavi, the predecessor of the petitioner in the year 1989. Said land however came to be forfeited on account of breach of conditions of the grant by an order passed by Sub Divisional Officer. There was no due notice to all the legal representatives before the land came to be forfeited. Similarly, the name of the mother of the petitioner was also recorded in the revenue records and she was also

not noticed. The Appellate Authority however confirmed said order. Despite a ground regarding lack of opportunity being raised, the revisional authority without giving any reasons has maintained said order.

Shri C. N. Adgokar, the learned Assistant Government Pleader for the respondents supported the impugned order by relying upon the affidavit filed on record. It is stated that though notice was issued to the father of the petitioner, said notice was returned back for insufficient address after which the Sub Divisional Officer passed the order of forfeiture.

Perusal of the record indicates that it was a specific ground raised by the petitioner that before forfeiting the land there was no opportunity of hearing granted to the legal heirs of the grantee. Though this ground has been specifically raised in the appeal as well as before the Additional Commissioner, there is no consideration of the same. It is further pertinent to note that in paragraph 4 of the affidavit in reply filed by the respondents it has been stated that notice sent to the father of the petitioners had not been served on him. It is therefore clear that in absence of due opportunity to the petitioner, the order of forfeiture has been passed.

Ordinarily this Court would have remanded the proceedings to the Additional Commissioner on the ground that an unreasoned order has been passed. However, even before the Additional Collector, the ground regarding absence of notice had been specifically raised but the same has not been duly considered. It

would therefore be appropriate in the facts of the case to remand the proceedings to the Sub Divisional Officer for reconsideration of the entire matter by granting due opportunity to the petitioners. As the allotted land is sought to be forfeited, such opportunity deserves to be granted.

Hence the following order is passed :

- (i) The order dated 06/02/2007 passed by respondent No.3, order dated 13/01/2010 passed by the respondent No.2 and the order dated 03/05/2014 passed by the respondent No.1 are set aside.
- (ii) The proceedings are remitted to the respondent No.3 for fresh consideration in accordance with law after giving due opportunity to the petitioner.
- (iii) The petitioner shall appear before the respondent No.3 on 24/08/2015 to facilitate such adjudication.

Rule is made absolute in aforesaid terms with no order as to costs.

JUDGE