

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.1833 OF 2016

- 1) Vitthalsing s/o Mahadusing Shewal,
Age-58 years, Occu:Service & Agri.,
- 2) Kapursing s/o Mahadusing Shewal,
Age-54 years, Occu:Service & Agri.,
- 3) Padamsing s/o Mahadusing Shewal,
Age-53 years, Occu:Agriculturist,
- 4) Madansing s/o Mahadusing Shewal,
Age-48 years, Occu:Service & Agri.,

Petitioner Nos.1 to 4 R/o-Bramhani,
Tq-Kannad, Dist-Aurangabad.

- 5) Smt. Rukhamanbai Gulabsing Ghusinge,
Age-45 years, Occu:Household,
R/o-Hajipurwadi, Tq-Vaijapur,
Dist-Aurangabad.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through Principal Secretary,
Forest and Revenue Department,
Mantralaya, Mumbai,
- 2) The Revenue Divisional Commissioner,
Division Aurangabad, Aurangabad,
- 3) The Collector,
Collectorate Office, Aurangabad,
Dist-Aurangabad,

- 4) The Deputy Collector,
Vaijapur, Dist-Aurangabad,
- 5) The Tahasildar, Kannad,
Tq-Kannad, Dist-Aurangabad,
- 6) The Talathi,
Saja Bramhani, Tq-Kannad,
Dist-Aurangabad,
- 7) Krushi Beej Gunan Kendra,
Narsingpur,
Through Taluka Agriculture Office,
Tq-Kannad, Dist-Aurangabad.

...RESPONDENTS

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Mr.Arvind R. Kawade Advocate for Petitioners.
Mr.S.K. Kadam, A.G.P. for Respondents.

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**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 18TH FEBRUARY, 2016

ORDER :

1. The Petitioners are claiming compensation in respect of the land stated to have been acquired long back, i.e. about 55 years ago. According to the Petitioners, their father was tenant in respect of the land. Initially the land acquisition proceedings were stated to have been

initiated in the year 1961, however, according to the Petitioners, the proceedings were not pursued. It does appear on perusal of the record that name of the Seed Farm appears in the 7 X 12 extract from 1966-67 onwards.

2. Apart from this the Petitioners presented suit being Regular Civil Suit No.322 of 2004 claiming declaration and mandatory injunction directing the Respondents to return the land. The suit presented by the Petitioners came to be dismissed by the Civil Court by order dated 25th February 2005 primarily on account of failure of Petitioners to prove their entitlement to the land.

3. The Petitioners claim that after dismissal of the said suit, they have discovered certain record which shows entitlement of their father in respect of the land, in his capacity as a tenant. On considerations of the documentary

evidence placed on record and after hearing the Petitioners, it does appear that the possession of the property has been taken way back in the year 1966-67 for the purpose of establishing seed farm. The Petitioners did not raise any dispute from 1966-67 onwards until date of presentation of the suit in the year 2004. Even after dismissal of the suit in the year 2005, Petitioners have approached this Court after lapse of more than ten years. In view of delay laches and considering the fact that the Petitioners failed to establish their entitlement, in the suit, instant Petition need not be entertained, since it has been presented after more than 55 years from the date of accrual of the cause of action.

4. The Petitioners have placed reliance on the Judgment in the case of **Tukaram Kana Joshi and others through Power of Attorney Holder vs. Maharashtra Industrial Development Corporation and others, (2013) Supreme Court Cases 353**. The facts

giving rise to the said matter are different than the facts of the present matter.

5. The Judgment of the Supreme Court in the case of **State of Maharashtra vs. Digambar, (1995) 4 Supreme Court Cases 683** can be pressed into service, wherein the Apex Court refused to entertain grievance of Petitioner before Supreme Court on account of unexplained delay and laches in approaching Court.

6. In exercise of extra ordinary writ jurisdiction of this Court, no interference is warranted. The Writ Petition stands dismissed.

[A.I.S. CHEEMA, J.]

asb/FEB16

[R.M. BORDE, J.]