

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

CRIMINAL WRIT PETITION NO.274/2016.

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**BABURAO S/O GANPAT GITE
V/S
THE STATE OF MAHARASHTRA & ORS**

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Adv.Mr.D.P.Palodkar for applicant
APP Mr.D.R.Kale for Respondent State
Adv.Mr.K.N.Shermale for intervenors.

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**CORAM : A.V.NIRGUDE &
V.L.ACHLIYA,JJ.**

DATED : 7TH JUNE,2016

PER COURT :-

Heard submissions of the parties. The petitioner's claim to the land is mainly based on long standing possession. The intervenors' claim to the land is based on their relationship with the owner whose name is Shrawan S/o Yesu Barde. Admittedly, the land in question belonged to the State of Maharashtra. It was also allotted to one Yesu being Adiwasi. After death of Yesu in 1973, his son Shrawan used this land as owner. His name was also mutated in revenue record. In 2006 Shrawan died. At the time of his death, Shrawan depended mainly on the petitioner. Shrawan did not have any issue. There was no support to him from his family members. It is the case of the petitioner that he supported and took care of Shrawan during his old age till his death. The petitioner claims that Shrawan made

Will in his favour in respect of the disputed land. The record shows that soon after Shrawan's death in 2006, petitioner's name was entered into revenue record. The revenue authorities however, initiated action against the petitioner but the same is still not complete. In the mean time, petitioner filed Suit against State of Maharashtra and somehow prevented his dispossession. We now realized that there are three claimants to the disputed land. One is State of Maharashtra who wants to restore the land to itself. The second claimants are intervenors. They claim that they are legal representative of Shrawan or his father Yesu. The third claimant is the petitioner.

2] This dispute should be dissolved through the provisions of Maharashtra Restoration of Land to Scheduled Tribes Act, 1974. The said authority we are told, is the Tahsildar. We direct the Tahsildar to decide the claims of the parties afresh within 6 months from today. Due to the disputed claims, we noticed that the intervenors have started staying since last few weeks in the adjoining land and are trying to create law and order problem.

3] The intervenors-respondents are directed to give undertaking to the Court stating therein that till the concerned authority decide the matter they will not disturb the petitioner's cultivation of the disputed land and they will not enter into the land without his permission and maintain law and order. Such undertaking shall be given by all the adults residing in the adjoining land. The list of such persons should be filed today on record. Copy of this order be sent to concerned police and provide police protection as per the earlier direction of this Court.

4] In view of above, Petition is disposed of.

(V.L.ACHLIYA,J.)

(A.V.NIRGUDE,J.)

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