

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3018 OF 2012

SHAIKH NASIRODDIN HAJI SHARFODDIN BELDAR
VERSUS
THE STATE OF MAH AND ORS

...

Advocate for Petitioner : Mr. B.R.Waramaa
AGP for respondents 1 to 3: Mr. S.P. Sonpawale

**CORAM : S.V. GANGAPURWALA &
K.K. SONAWANE, JJ.**

DATE : 20th APRIL, 2016.

PER COURT:

1] We have heard Mr. Waramaa learned counsel for the petitioner. Learned counsel states that after the passing of order by the Commissioner, purportedly under Section 247 of the Maharashtra Land Revenue Code, subsequently order is passed by the State, denying the claim of the petitioner for refund. The petitioner was not handed over two sites because of agitation of the villagers. The claim for refund was pending, Same is negatived. The said order is passed by the State itself.

2] According to the learned AGP, the order is passed by the Commissioner dated 26.3.2012, invoking Section 247 of the MLRC against which the petitioner has a remedy by approaching the State Government even under Section 257 of the MLRC.

3] Considering the aforesaid aspect of the matter, though Mr. Waramaa, learned counsel sought to canvass submissions on merits, we are not inclined to consider the same. WE are inclined to relegate the petitioner to the alternate remedy.

4] Considering the above, we pass the following order :-

[a] The petitioner may approach the State Government against the order dated 26.3.2012 passed by the Commissioner (page 157). The State shall consider the time spent in prosecuting the present writ petition. The respondent State shall decide the said proceeding on its own merits, in accordance with law, expeditiously and after hearing the petitioner. All contentions in that regard are kept open.

[b] Depending upon the judgment delivered by the State in revision, the State shall redetermine the claim of the petitioner with regard to refund, as claimed by him. In the light of that, the order passed by it, on 29.3.2014 would not be an impediment.

[c] Considering the fact that the property of the petitioner is attached, the revision would be decided expeditiously, preferably within six months from the date of filing of the same. The amount deposited by the petitioner shall be kept in Fixed Deposit till the revision is decided.

[d] The interim order passed by this Court would continue till the disposal of the revision, which shall be filed within a period of two weeks from today and till that time the petitioner shall not create third party interest in respect of the property that was attached.

[e] Writ petition is disposed of. No costs.

[K.K. SONAWANE,J.]

[S.V.GANGAPURWALA,J]

grt/-