

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

14 WRIT PETITION NO. 3748 OF 2014

JALINDAR RANGANATH DHERE AND OTHERS

VERSUS

TUKARAM @ SAHEBRAO GANGARAM SONAWANE AND OTHERS

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Advocate for Petitioners : Mr. Deshmukh Vijay Vasantrao

AGP for Respondents State: Mr. P. N. Kutti

Advocate for Respondents 1 to 4 : Mr. K. N. Lokhande

CORAM : V. K. JADHAV, J.

DATE : 27th January, 2016

PER COURT :

1. Heard finally with the consent of the parties at admission stage.

2. The petitioners / original applicants have filed application bearing Pipe Line Case No. 75/2012 before the Tahsildar, Newasa for grant of permission to install pipe line through Bandhs of agricultural fields of Respondent Nos. 1 to 24 and also prayed for perpetual injunction against them. The Tahsildar Newasa, by his order dated 28.05.2012, has allowed the application and thereby granted permission to install pipe line through various Gat Nos. Being aggrieved by the same, respondents 1 to 24 preferred revision under Section

49(8) of the Maharashtra Land Revenue Code before the Collector, Ahmednagar, being Revision No. 65/2013. After hearing the parties in the revision, the learned Additional Collector, Ahmednagar, by its impugned order dated 15.06.2013, has partly allowed the revision and quashed and set aside the order dated 28.05.2012 passed by the Tahsildar, Newasa and remanded the matter for considering it afresh after complying with the provisions of section 49 of the Maharashtra Land Revenue Code.

3. The learned counsel for the petitioners submits that the learned Tahsildar, Newasa has passed order in the light of the application submitted by the petitioners/original applicants under the provisions of the Maharashtra Land Revenue Code, 1966 and learned Tahsildar has granted permission in terms of provisions of Section 49 of the M.L.R.Code. The learned counsel further submits that even though no specific ground is raised in the revision about non compliance of provisions of Section 49 of the M.L.R.Code, the learned Additional Collector, by its impugned order, remanded the matter to the Tahsildar for deciding it afresh. The learned counsel submits that Tahsildar has taken care of the provisions of Section 49 of the M.L.R.Code. There was no

reason for the Additional Collector to remand the matter for consideration afresh.

4. Learned counsel for the respondents submit that the Additional Collector has noticed that there is no compliance of provisions of Section 49 of the M.L.R. Code and accordingly directed the Tahsildar to decide the matter afresh. The learned counsel submits that the order impugned is proper, correct, legal and calls for no interference.

5. I have also heard learned AGP.

6. It appears from the order passed by the Tahsildar, Newasa that without assigning any reason, the Tahsildar has allowed the application. Learned Tahsildar has simply stated in the operative part of the order that permission is granted for installation in terms of provisions of Section 49 of the Act. On careful perusal of copy of the application filed by the petitioners/applicants before the Tahsildar, it appears that no specifications are given in the application about the proposed installation of pipe line and further more, no map is produced along with the application for proposed installation of pipe line. The learned Tahsildar has simply stated in the

order that the application is allowed in terms of provisions of Section 49 of the M.L.R.Code. The learned Additional Collector has rightly observed that the provisions of Section 49 of the M.L.R. Code are not complied with. The learned Tahsildar has not given specific direction while disposing of the application. I do not find any fault in the impugned order passed by the Additional Collector, Ahmednagar. The learned Additional Collector has rightly directed the Tahsildar to decide the application afresh, strictly in terms of provisions of Section 49 of the Code. There is no merit in the writ petition.

7. Hence the writ petition is dismissed. There shall be no order as to costs.

8. The Tahsildar Newasa shall dispose the application within three months from the date of receipt of copy of this order.

(V. K. JADHAV, J.)

JPC