

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

WRIT PETITION NO. 5063 OF 2016

Dr. Harshal s/o Manohar Mane
Age 40 years, Occ. Medical Practitioner,
R/o. Kishna Hospital, Kajgaon Road,
Parola, Dist. Jalgaon

... PETITIONER
(Affected person)

VERSUS

1. Supadu Shenpadu Mali
Age 60 years, Occ. Agri.
2. Daga Gotu Mali
Since deceased through legal heirs
 - 2-1) Raju Daga Mali
Age 48 years, Occ. Agri.,
 - 2-2) Vithoba Daga Mali
Age 46 years, Occ. Agri.
 - 2-3) Bhagwan Daga Mali
Age 43 years, Occ. Agri
 - 2-4) Dnyaneshwar Daga Mali
Age 39 years, Occ. Agri.
3. Dagubai Kisan Choudhari
Since deceased through legal heirs
 - 3-1) Nimba Kisan Choudhari
Age 50 years, Occ. Agri.

4. Zendu Bhaga Mahajan
Since deceased through legal heirs
 - 4-1) Shantaram Zendu Mahajan
Age 62 years, Occ. Agri.,
 - 4-2) Dayaram Zendu Mahajan
Age 60 years, Occ. Agri.
5. Atmaram Bhika Mali
Age 69 years, Occ. Agri.
6. Bhika Chindhu Choudhari
Age 50 years, Occ. Agri.
7. Atmaram Zinga Choudhari
Age 55 years, Occ. Agri.
8. Ananda Ramchandra Mali
Since deceased through legal heirs
 - 8-1) Geetabai Ananda Mali
Age: 60 years, Occ. Agri.
9. Naginbai Motilal Jaiswal
Age: 60 years, Occ. Agri.
10. Phulsing Kisan Patil
Since deceased through legal heirs
 - 10-1) Bapu Phulsing Patil
Age 45 years, Occ. Agri.
11. Sahebrao Baliram Mali
Age 50 years, Occ. Agri.
12. Bhoju Sandu Mali
Since deceased through legal heirs
 - 12-1) Balu Bhoju Mali
Age 46 years, Occ. Agri.

13. Gorakh Sanpat Mali
Since deceased through legal heirs
13-1) Prakash Gorakh Mali
Age 36 years, Occ. Agri.
14. Ukhardu Sampat Mali
Age 65 years, Occ. Agri.
15. Sow. Nirmalabai Subhash Mali
Age: 40 years, Occ. Agri.
16. Rambhau Narsu Choudhari
Since deceased through legal heirs
16-1) Bapu Rambhau Choudhari
Age 55 years, Occ. Agri.
17. Narayan Sukdeo Mali
Since deceased through legal heirs
17-1) Atmaram Narayan Mali (Died)

17/1/1) Anita Atmaram Mali
Age 42 years, Occ. Agri.
18. Shankar Bhaga Mali
Since deceased through legal heirs
18-1) Sitaram Shankar Mali
Age 63 years, Occ. Agri.
19. Khandu Bhaga Mali
Since deceased through legal heirs
19-1) Soma Khandu Mali
Age 53 years, Occ. Agri.
20. Rajdhar Sandu Mali
Since deceased through legal heirs
20-1) Tapiram Rajdhar Mali
Age 60 years, Occ. Agri.
21. Atmaram Eka Mali
Since deceased through legal heirs
21-1) Bhagwan Atmaram Mali
Age 58 years, Occ. Agri.

22. Santosh Shenpadu Mali
Age 58 years, Occ. Agri.
R/o. C/o. Bhagwan Daga Mali
Sagam Traders, Parola,
Near Bhajimarket, Parola,
Tq. Parola, Dist. Jalgaon

Through their General Power of Attorney Holder

1. Bhagwan Daga Mali
Age 43 years, Occ. Agri.
 2. Santosh Shenpadu Mali
Age 58 years, Occ. Agri.
Both R/o-Maliwada, Parola
Dist – Jalgaon
 3. Nimba Kisan Choudhary
Age – 50 years, Occ. Agri.
R/o Bahiram Galli,
near Gajanana Mandir,
Parola, Dist – Jalgaon (Orig. Applicants)
23. Shree Samb Hari Hareshwar
Shree Pataleshwar & Zapat Bhawani Trust
Through
A. Deepak
B. Mangesh
24. The State of Maharashtra
Through Principal Secretary,
Revenue Department, Mantralaya,
Mumbai-32. ... RESPONDENTS

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Mr. B. R. Waramaa, Advocate for petitioner
Mr. Parag V. Barde, Advocate for respondent No.1 – caveator
Mr. D. K. Rajput, Advocate for respondent No.23
Mr. S. K. Tambe, Assistant Government Pleader for
respondent No.24

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CORAM : SUNIL P. DESHMUKH, J.

DATE : 4th MAY, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. The petitioner, purportedly aggrieved by an order dated 29th April, 2016 passed by the Hon'ble Minister for Revenue, Maharashtra State in Review Application bearing DEV-3216-Case No.223/J-6, whereunder, according to learned counsel ad-interim order has been passed straight-away without looking into various aspects involved in the matter and staying operation of order dated 5th May, 2014 passed by the then State Minister for Revenue, Maharashtra State in case No. DEV-1013/P.K. 290/L-4, pursuant to which concerned land had been deleted from Inam Class-III category and brought under revenue assessment and registered sale-deed has been executed in favour of the petitioner and others.

3. Learned counsel further refers to that the claim of review petitioners before the authority is spurious for variety of reasons, and is absolutely untenable. Respondent No.23 is

registered trust established pre-independence and administered by trustees. The trust owns and possesses agricultural lands including the lands concerned in the present matter. Respondents No. 1 to 22 claimed themselves to be cultivators over the lands, however, their claim of tenancy stands rejected since tiller's day and relevant entries have also been appearing continuously since 1962 onwards.

4. Thereafter, after following due procedure of law, the lands have been converted into a marketable land and accordingly, transaction has taken place. Learned counsel for petitioner further submits that, however, suddenly the review application has been preferred before present Revenue Minister without impleading petitioner herein as party to the same. An order came to be passed on said review application without hearing concerned parties including present petitioner and without considering relevant aspects involved in the matter.

5. He further submits that as a matter of fact, review applicants have filed a suit seeking declaration and injunction against present petitioner and the trust and this fact has been suppressed in the review proceedings before the authority. He

submits that, in this scenario staying the order passed way back in 2014 is absolutely illegal and unsustainable.

6. Mr. Barde, learned counsel appearing for respondent No.1 – caveator contends that in the review proceedings respondent No.1 is not averse to make petitioner a party though there is no order to make the petitioner a party to those proceedings. He further submits that in any case, *ad-interim* order does not become final automatically. It is open for the petitioner to take up appropriate proceedings before the authority before which the matter is pending.

7. Learned counsel for petitioner submits that petitioner is getting affected by the impugned order.

8. In view of aforesaid, it would be open for the petitioner to take up appropriate proceedings before the authority for his impleading in review application, and seek appropriate orders.

9. It is expected that if at all petitioner approaches the authority, the entire process should be completed thereafter within a period of twelve weeks from the date of receipt of writ of this order.

10. Having regard to aforesaid, at this juncture, it does not to be a stage mature enough calling for interference under the discretionary powers of this court.

11. As such, with aforesaid directions, writ petition stand disposed of. Needless to refer to that all points are open for the parties. Rule is made absolute accordingly.

(SUNIL P. DESHMUKH, J.)

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