

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

WRIT PETITION NO. 713 OF 2016

Sukram Supdu Malche

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Ajit M. Gholap, Advocate for the Petitioner.

Shri U. H. Bhogale, A.G.P. for Respondent Nos. 1 to 3.

CORAM : S. V. GANGAPURWALA AND

A. I. S. CHEEMA, JJ.

DATE : 07TH MARCH, 2016.

PER COURT :

. The learned counsel for the petitioner states that, land bearing gut No. 851 (Old Sy. No. 537-A-5-9-R and 680-A-1-15-R) of Mouje Bhadgaon, Tq. Bhadgaon, Dist. Jalgaon admeasuring 02H 67 R was belonging to one Chindha Naga Bhill. It was granted to him as Bhill Jagale Inam in the year 1910. The learned counsel submits that, in the year 1962 the name of the Government was mutated in view of the Service Inam Abolition Act pursuant to the order dated 22.01.1964. According to the learned counsel, the same amounts to transfer and any subsequent transfer made by the respondent No. 4 and his assignees is also hit by the provisions of the Maharashtra Restoration of Lands to Schedule Caste and Schedule Tribe Act,

1974 (for short "Restoration Act"). The learned counsel submits that, the said transfer being in violation of the provisions of the Restoration Act, the said transfer is illegal. The petitioner is entitled to repossess the said property. According to the learned counsel, the petitioner has approached the authorities in that regard time and again, however, no cognizance has been taken by the authorities. Event he petitioner had approached the Tahsildar. The Collector had also ordered taking over possession of the subject matter of the land, still the possession of the land is not delivered.

2. The learned Assistant Government Pleader submits that, the Sub Divisional Officer had passed an order on 28.02.1976 dropping the proceedings as there is no transfer of any land.

3. We have considered the submissions canvassed by learned counsel for respective parties. The petitioner's forefathers were allotted an inam land. After introduction of the Abolition of Inam Act, all inams stood abolished and the same vests with the Government. In 1964, the said land was allotted to the deserving persons as per rules. The provisions of the Restoration of Lands to the S.C. and S.T. Act 1974 would not apply to the transfer effectuated prior to 1974.

4. In the present case, there is no voluntary transfer of the

land. The land has not changed hands in pursuance of any transaction between the parties. However, it was by operation of statute the inams stood abolished and the same vest with the Government and was allotted to the occupants on payment of occupancy price. The petitioner had raised a grievance before the Sub Divisional Officer, Chalisgaon. That was competent authority under the Restoration Act, but authority concluded the said proceedings and held that the land vesting with the Government does not amount to transfer and dropped the proceedings vide order dated 28.02.1976. The said order become final. The said order has not been assailed by the petitioner or his predecessor at any point of time. When the said order had become final and the petitioner had not challenged the said order, the petitioner is bound by the said order.

5. Considering the aforesaid conspectus of the matter, the claim of the petitioner cannot be considered. The writ petition as such is dismissed. No costs.

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

[S. V. GANGAPURWALA, J.]