

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8509 OF 2013

Manika S/o. Mariba Jondhale and others .. **Petitioners**

Versus

The State of Maharashtra and others .. **Respondents**

Shri Maya R. Jamdhade h/f Shri Narendra R. Jamdhade, Advocate for
Petitioners.

Shri S. B. Pulkundwar, A. G. P. for Respondents.

CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.

DATE : 29TH JULY, 2016.

PER COURT :-

1. Pursuant to our order dated 14th July, 2016, Tahsildar, Mudkhed is present in the court.
2. The learned counsel for the Petitioners states that, Respondent No. 4 be directed to conduct the enquiry U/sec. 38/E (1) Explanation of the Hyderabad Tenancy and Agricultural Lands Act, 1950 as was directed by the Additional Collector, Nanded vide its order dated 18.10.1993 the file was sent to the Tahsildar for further enquiry.
3. The learned A. G. P. states that, pursuant to the liberty granted by the Additional Collector the Petitioner never moved an application U/sec. 38/E (1) Explanation of the Hyderabad Tenancy and Agricultural Lands Act, 1950 and as such there is no question of the Tahasildar deciding the same.
4. We have considered the order dated 18.10.1993 (**Exh. C**) passed by the Additional Collector. The relevant portion of the said order reads as under -

***“ I have carefully considered the petition with
reference to the provisions of the Tenancy Act. The***

Petitioner contends that she not been given possession after declaration. In this case Section 98 is not applicable but the declared tenant can apply for possession u/s 38/E(1) explanation to the Tahsildar. The Tahsildar upon receipt of such application can conduct necessary enquiries and can put the declared tenant in to possession of the declared land.

The Petitioner should therefore approach to the Tahsildar Nanded. The Petition is hereby rejected."

5. There is nothing on record to suggest that as per the liberty granted by the Additional Collector the Petitioner has filed proceedings U/sec. 38/E (1) Explanation of the Hyderabad Tenancy and Agricultural Lands Act, 1950. The Additional Collector vide its order dated 18.10.1993 had not remanded the matter but had rejected the appeal with the liberty as aforesaid. It was for the Petitioners to file the proceedings as per the liberty granted by the Additional Collector, Nanded.

6. Miss Jamdhade, the learned counsel states that the Petitioners be granted the said liberty to approach the authority U/sec. 38/E (1) Explanation of the Hyderabad Tenancy and Agricultural Lands Act, 1950.

7. The said liberty was also granted by the Additional Collector, Nanded. The Petitioners may take up such proceedings as may be maintainable and permissible in law.

8. The Writ Petition is accordingly disposed of. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]