

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

WRIT PETITION NO.219 OF 2016

Arjun Barku Pardhi and ors.

..Petitioners

Versus

Bhagwan Ragho Rane and ors.

..Respondents

Mr M.V.Bhamre, Advocate for petitioners

Mr L.V. Sangit, Advocate h/f Mr Apparao Yenegure, Advocate for
respondent No.1

Mr S.K. Tambe, A.G.P. for respondent No.5

CORAM : T.V. NALAWADE, J.

DATE : 24th August 2016

PER COURT

1. The petition is filed to challenge the decision of Maharashtra Revenue Tribunal, Aurangabad (hereinafter referred to as 'M.R.T.' for brevity) in Case No.7/A/2009/Dhule. By the said decision dated 2nd September 2015, M.R.T. has set aside the order made by learned Tahsildar, Sindkheda, District Dhule in proceeding bearing Adiwasi Case No.2/2001 dated 26th May 2003. Heard both the sides.

2. Present petitioners had filed proceeding before the Tahsildar, Sindkheda under the provisions of Maharashtra Restoration of Lands to Schedule Tribes Act 1974 for getting possession of land Gut No.734 admeasuring 1 hectare, 87 Aar situated at village Varud, Tahsil Sindkheda, District Dhule. Tahsildar had allowed the application and this decision is set aside by M.R.T.

3. The submissions made and the record show that the in the year 1975, suo moto proceeding was started under the provisions of aforesaid Act and notice was issued against the present respondents. Even order was made in favour of the present petitioners. The proceeding was taken up to this Court in the past and in this Court, statement was made by the State Government that it was withdrawing the notice of eviction given to the present respondents. As the notice itself was withdrawn, the order made in favour of present petitioners also stood cancelled and then the possession of the land was given to present respondents.

4. In the year 1998, present petitioners filed one more proceeding under the same Act for similar relief. The Tahsildar again made order in favour of present petitioners and the order was challenged in the year 1999 before the Commissioner, who set aside the order made by Tahsildar and direction was given to restore the possession in favour of present respondents. Accordingly, the possession was restored. This decision given in Case No.51/A/99/Dhule was challenged by filing Writ Petition No.4947 of 2000 by present petitioners. It appears that the petition was not prosecuted by the present petitioners and they withdrew it by making submission that they wanted to start appropriate proceeding before the proper authority, as provided under the aforesaid special Act. Thus, the decision given by M.R.T. in 2000 remained in existence and the decision of competent authority became final. When there was such decision of M.R.T., the petitioners filed one more proceeding before the Tahsildar in the year 2003. In

view of these circumstances, the M.R.T. held in the decision under challenge that there was already a decision of competent authority, which had become final and so Tahsildar could not have made such order.

5. Learned Counsel for the petitioners submitted that when this Court had given liberty to the petitioners to file appropriate proceeding before the appropriate forum, it was not open to the M.R.T. to hold that the decision of M.R.T. given in 2000 had become final and fresh proceeding was not tenable. The submission made by learned Counsel for the petitioner is not acceptable. This Court had not set aside the decision of M.R.T. given in 2000 and only liberty to withdraw the petition was given. Thus, due to misconception, writ petition was withdrawn by the present petitioners in the past. It can be said that they were not properly advised. So long as there is a decision of M.R.T. given in 2000, in favour of present respondents, the decision given by M.R.T. in new proceeding in the year 2015 cannot be interfered with.

6. In view of these circumstances, this Court holds that there are no merits in the present proceeding. As such, Writ Petition is dismissed.

(T.V. NALAWADE, J.)

vvr