IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10186 OF 2013

Sanjay Kaduba Kakde ...PETITIONER

versus

The State of Maharashtra and others ...RESPONDENTS

.....

Mr. B.B. Doiphode, Advocate holding for
Mr. N.P. Patil, Jamalpurkar, Advocate for petitioner
Mrs.A.V.Gondhalekar, AGP for respondents

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

DATED : 21st JUNE, 2016.

Order :-

1. Learned counsel for petitioner submits that before assessing municipal taxes no notice was issued to the petitioner. The impugned order is issued in the name of mother of petitioner, who is already dead in the year 2010. Learned counsel for petitioner further submits that even Tahsildar has made office note that out of said land, area of 4000 sq. meter is used for Nursery purpose and the same cannot be considered for non-agricultural tax. Learned counsel further submits that still no cognizance is taken and principles of natural justice has not been followed.

2. Learned Assistant Government Pleader submits that Accountant General of Maharashtra has issued statement saying that nine agriculturists have to pay non-agricultural tax. Out of these nine

agriculturists, seven agriculturists have paid tax and as the petitioner has not paid tax, notice is issued to him. According to learned Assistant Government Pleader, from the 7/12 extracts also non agricultural use of land is apparent.

4. From the documents, nowhere it appears that before assessing non-agricultural taxes notice was issued to the petitioner. No show cause notice with regard to assessment of non-agricultural tax was issued to the petitioner. In light of above, it also nowhere appears that even note of Tahsildar was taken into consideration.

5. Considering the above, impugned notice dated 07-06-2013 issued by Tahsildar, Purna, District Parhbnai is quashed and set aside. Respondents may after issuing show cause notice to the petitioner, considering reply from petitioner may take further steps with regard to assessment of non agricultural tax.

6. Writ petition accordingly stands disposed of. No costs.

Sd/- Sd/-

[K. K. SONAWANE, J.] **[S. V. GANGAPURWALA, J.]**

MTK