

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO.31586 OF 2016

**Smt. Mangala Gopal Gokhale
Deceased through legal heirs
Yogesh Jayant Gokhale and others**

..Petitioners

Versus

State of Maharashtra and others

..Respondents

Mr. Akhil Kupade i/by Manoj Harit & Co., for the Petitioners.

Mr. S. H. Kankal, AGP for the Respondent No.1.

CORAM : R. M. SAVANT, J.

DATE : 2nd DECEMBER, 2016

PC.

1 The above Writ Petition takes exception to the order dated 10.10.2016 passed by the Sub Divisional Officer, Panvel (In prayer (b) it is mentioned that the order is undated). The Learned Counsel for the Petitioners states that the Petitioners became aware of the order being passed on 10.10.2016 after the filing of the above Petition.

2 By the said order, the SDO has stayed the order dated 23.09.2016 passed by the Tahsildar, whereby the Tahsildar had directed the Circle Officer, Chinchwali to take possession of the land from the Respondents herein and hand over the same to the Petitioners. The impugned order has been challenged principally on the ground that the stay has been granted by the Sub Divisional Officer without hearing the

Petitioners. The said order dated 23.09.2016 passed by the Tahsildar and ALT, Panvel in Tenancy Application No.45 of 2015 has its genesis in the order dated 26.07.2012 passed by the Tahsildar and ALT, Panvel thereby rejecting the Tenancy Application bearing No.3 of 2012 filed by the Respondents on the ground that the Respondents have lost rights over the land in question so as to purchase the land, the order dated 23.07.2013 passed in Appeal bearing No.91 of 2012 by which order the Appeal filed by the Respondents against the order dated 26.07.2012 came to be dismissed and the order dated 10.02.2015 by which order the Revision filed by the Respondents was partly allowed by the Maharashtra Revenue Tribunal only to the extent of conducting a limited enquiry as regards passing an order on the application moved by the Petitioners way back in the year 2008 for restoration of possession. In so far as the finding of the Tahsildar and the Sub Divisional Officer that the Respondents have lost their rights to purchase the land, the said finding was confirmed. It is pursuant to the order dated 10.02.2015 that the Petitioners filed the Tenancy Application bearing No.45 of 2015 for possession of the land in question. The said application came to be allowed by the Additional Tahsildar by order dated 10.02.2015, wherein it was observed that the Respondents have lost their right to purchase the land and the Additional Tahsildar directed the concerned authorities to verify the fact whether the

Petitioners are the legal heirs of the land owner and after verifying the same enter the names of the Petitioners in the 7/12 extract. The mutation entry being No.1078 which was effected in favour of the Petitioners was also challenged by the Respondents, which challenge failed before the Sub Divisional Officer, as the Sub Divisional Officer rejected the Revision Application No.31 of 2015 by order dated 02.05.2016.

3 Since the Petitioners have alternatively prayed that the Respondent No.1 i.e. the Sub Divisional Officer be directed to expedite the hearing of the Appeal bearing No.4 of 2016 and considering the fact that the Appeal is pending before the Sub Divisional Officer, it would be just and proper to direct the Sub Divisional Officer to hear and decide the said Appeal latest by 31.01.2017. This is in the context of the fact that the parties have been involved in litigation since last 30 years or thereabout. With the aforesaid directions, the Writ Petition is disposed of.

4 Parties to act upon a copy of this order duly authenticated by the Court Shirestedar/Associate.

[R.M.SAVANT, J]