

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

Writ Petition No. 2223 of 1999

District : Nanded

Pandu s/o. Malku Shedmake,
Age : 40 years,
Occupation : Agriculture,
R/o. Hirapur, Post Kothari,
Taluka Kinwat,
District Nanded.

.. Petitioner.

versus

1. The State of Maharashtra.
2. The Tahsildar, Kinwat,
District Nanded.
3. The Sub-Divisional Officer,
Nanded.
4. The Collector, Nanded.
5. Gangadhar s/o. Shivanna Bhandarwar,
Age : 35 years,
Occupation : Agriculture,
R/o. Kothari,
Taluka Kinwat.
6. Kundlik s/o. Laxman Wadgore,
Age : 50 years,
Occupation : Agriculture,
R/o. as above.
7. Naganna s/o. Shivanna Jakkulwar,
Age : 35 years,
Occupation : Agriculture,
R/o. as above.
8. Tukaram s/o. Pandurang Wadgore,
Age : 25 years,
Occupation : Agriculture,
R/o. as above.

.. Respondents.

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*Mr. P.P. Mandlik, Advocate, instructed by
Mr. P.V. Mandlik, Senior Advocate, for the
petitioner.*

*Mr. S.B. Yawalkar, Addl. Government Pleader,
for respondent nos.01 to 04.*

*Mr. G.R. Syed, Advocate, holding for
Mr. A.P. Bhandari, Advocate, for respondent no.05.*

Respondent no.08 served (Absent).

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**CORAM : V.M. KANADE &
SANGITRAO S. PATIL, JJ.**

DATE : 04TH JANUARY 2017

ORAL JUDGMENT (Per V.M. Kanade, J.) :

Heard the learned Counsel appearing on behalf of the petitioner.

02. By this petition which is filed under Article 226 of the Constitution of India, the petitioner is seeking following reliefs :-

(A) Rule be issued;

(B) Writ Petition be allowed with costs;

(i) The respondent nos.1 to 4 may be directed to restore the suit land to the petitioner from the respondent nos.5 to 8 i.e. land S.R.No.300, Gat No.326, 328, 329, 330, situated at village Hirapur, Post Kothari, Taluka Kinwat;

(ii) The transfer / alienation of suit land Sr.No.300, Gat No.326, 328, 329, 330, in favour of respondent no.5 to 8 is illegal;

(C) Pending hearing and final disposal of this writ petition, the respondent nos.5 to 8 may be restrained by an order of injunction not to alienate or transfer the suit land in favour of any other person and not to make third party interest in the suit land Sr.No.300, Gat No.326, 328, 329, 330 of Hirapur, Taluka Kinwat.

(D) Other suitable orders may be passed;

OR

In the alternatively,

(a) The respondent nos.1 to 4 may be directed to consider and decide the application Exh.'A' filed by the petitioner by initiating the appropriate proceedings for restoration of the land to the Tribal/petitioner under the provisions of the relevant laws.

03. The grievance of the petitioner is that the application filed by him was closed on the ground that the land allegedly belonging to the petitioner was transferred prior to 01.04.1957 and, therefore, he was not entitled for possession of the said land. It is submitted that the direction be given to reconsider his application on merits.

04. Respondent nos.05 to 07 have filed their reply. Perusal of the said reply clearly discloses that against the said order, the petitioner has filed an appeal before the Sub-Divisional Officer, who after giving hearing to both the parties, confirmed the order passed by the Addl. Tahsildar. Secondly, it is stated in the affidavit that one Malku Bhima had also filed a Civil Suit bearing No.41/67 against one Shekhar Reddy and others for declaration of ownership. The said suit was also dismissed for want of prosecution. It is submitted that the petitioner is claiming through his father Malku Shedmake whose

claim was also rejected by the competent authority.

05. We are satisfied that the petitioner has approached this Court by suppressing material facts and, therefore, cannot seek any relief from this Court. There is no merit in the submission of the learned Counsel for the petitioner.

06. The petition is, therefore, dismissed. Rule discharged. There shall be no order as to costs.

(Sangitrao S. Patil)
JUDGE

(V.M. Kanade)
JUDGE

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