

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

**WRIT PETITION NO. 2117 OF 2015
WITH
CIVIL APPLICATION NO.6613/2015
WITH
CIVIL APPLICATION NO.9245/2017**

LALBI BEG @ LALBI JIVANBHAI SHAIKH,
LRS SHAIKH NISAR FAKIR MOHD AND OTHERS ...PETITIONERS

VERSUS

THE ADDITIONAL COLLECTOR, AHMEDNAGAR
AND OTHERS ...RESPONDENTS

...
Advocate for Petitioners : Mr. G.S. Rane
AGP for Respondent No.1 : Mr. P.N.Kutti
Advocate for Respondent Nos. 3 & 4 : Mr. A.G. Kulkarni
Advocate for Respondent No.5 : Mr. V.P. Kadam
Advocate for Intervenor : Mr. S. S. Rathi (C.A. No.6613/2015)
...

CORAM : V.K.JADHAV, J.
DATED : 6th DECEMBER, 2017.

PER COURT :-

1. Learned counsel for the petitioners submit that during the pendency of this writ petition, the petitioners have instituted Regular Civil Suit No.8 of 2017 on 03.01.2017 before the Civil Judge, Junior Division, Rahata, Dist. Ahmednagar, against the five defendants including the present respondent Nos. 3 to 6 for declaration that the petitioners are the legal heirs of Lalbi and Mogal Beg, and also sought the declaration that the petitioners are having

their share as per the provisions of the Mohammedan Law in the ancestral property as detailed in the suit.

2. The learned counsel appearing for the parties in the present writ petition agree that, unless and until the said suit is decided on merit, the decision regarding the restoration of the land in favour of the legal heirs of the original tenants cannot be taken appropriately even by the competent authorities under the provisions of Maharashtra Agricultural Land (Ceiling on Holdings) Act, 1961.

3. It further appears that this writ petition is filed in the year 2015 and this Court by order dated 4th March, 2015 directed the State authorities not to allot the land to the extent of 17 Acres and 18 Gunthas situated at Puntamba, Taluka Rahata, Dist. Ahmednagar to any other person. The said order remained continued till this date, and as such, the status-quo has been maintained in respect of the decision to be taken regarding restoration of the land.

4. Learned counsel for the petitioners submits that the petitioners may be granted liberty to file an application in the pending suit for seeking interim relief identical to the order passed by this Court directing the State authorities

not to restore the land and till that application is decided by the trial Court, the order dated 4th March, 2015, wherein, this Court has directed the State authorities not to allot the land be continued.

5. The learned counsel appearing for the respondent Nos. 3, 4 and 5 submits that, if the order dated 4th March, 2015 passed by this Court remained continued, the trial Court would get prejudiced to decide the application, if submitted by the petitioners, on merits.

6. In view of the institution and pendency of the Regular Civil Suit No.8/2017 before the Civil Judge, Junior Division, Rahata, Dist. Ahmednagar, the petitioners are at liberty to file an application in the said pending suit for interim relief and the learned Judge of the trial Court shall decide the said application seeking interim relief on its own merit. The trial Court shall not get prejudiced for the reason that this Court has passed order way back on 04.03.2015 directing the State authorities not to allot the land to the extent of 17 Acres and 18 Gunthas to any other person. If such application seeking interim relief is submitted by the petitioners before the Civil Judge, Junior Division, Rahata,

Dist. Ahmednagar in pending Regular Civil Suit No.8/2017 within six weeks from the date of this order, the order passed by this Court dated 4th March, 2015 directing the State authorities not to allot the land to the extent of 17 Acres and 18 Gunthas situated at Puntamba, Tal. Rahata, Dist Ahmednagar to any other person shall remain continue till the disposal of the said application.

7. The Civil Application No. 6613 of 2015 seeking intervention in this writ petition is also disposed of with liberty to intervenor to file the similar application in the pending suit before the Civil Judge, Junior Division, Rahata, Dist. Ahmednagar and the learned Civil Judge, Junior Division, Rahata, Dist. Ahmednagar shall pass the appropriate order in the said application on its own merits.

8. Civil application No.9245 of 2017 is also disposed of.

(V.K.JADHAV, J.)

mta/-