IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4481 OF 1998

1. Ashruba S/o. Bhaguji Gore,
deceased L.Rs.

    a) Shivaji S/o. Ashruba Gore,
    Age. 45 yrs,

    b) Uttamrao S/o. Ashruba Gore,
    Age. 40 yrs,

    c) Shainath S/o. Ashruba Gore,
    Age. 34 yrs,

    d) Baban S/o. Ashruba Gore,
    Age. 27 yrs,

    e) Arjun S/o. Ashruba Gore,
    Age. 19 yrs,

2. Rambhau S/o. Kashinath Gore,
Age. 51 yrs., Occ. Agri.,

3. Maruti S/o. Kashinath Gore,
Age. 56 yrs., Occ. Agri.,

4. Shamrao S/o. Kashinath Gore,
Age. 41 yrs., Occ. Agri.,

5. Shrimant S/o. Bhaguji Gore,
Age. 56 yrs., Occ. Agri.,

6. Jivan S/o. Sahebrao Gore,
Age. 36 yrs., Occ. Agri.,

7. Pralhad S/o. Sahebrao Gore,

Age. 31 yrs., Occ. Agri.,

8. Babu S/o. Kishan Gore,
Age. 51 yrs., Occ. Agri.,

9. Laxman S/o. Kondiba Gore,
Age. 55 yrs., Occ. Agri.,

10. Appa S/o. Karbhari Gore,
Age. 26 yrs,

11. Deo Kondiba Gore,
Age. 35 yrs., Occ. Agri.,

12. Vithal S/o. Kondiba Gore,
Age. 31 yrs., Occ. Agri.,

13. Santram Bhagwan Gore,
Age. 19 yrs, Occ. Agri.,

14. Vijay Bhagwan Gore,
Age. 21 yrs., Occ. Agri.,

15. Navnath Sahebrao Gore,
Age. 29 yrs., Occ. Agri.,

All residents of village
Hivara Pahadi, Tq. & Dist. Beed. ...Petitioners.

Versus

1. The State of Maharashtra,

2. The Additional Collector,
(Atiyat) Beed.

3. The Deputy Collector,
(Atiyat) Beed.

4. The Tahsildar, Beed,
Tq. and Dist. Beed.

5. Kazi Sabiuddin S/o. Kazi Inamtullah,
Age. Major, Occu. Agri.,
R/o. Georai, Dist. Beed.

6. The Designated Member,
Maharashtra Revenue Tribunal,
at Aurangabad. ...Respondents.

Advocate for Petitioner : Shri V.G. Mete.
AGP for Respondent No. 1 to 4 : Shri S.K. Tambe.
Advocate for Respondent No. 5 : Smt. M.A. Kulkarni.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 06th July, 2017

ORAL JUDGMENT :

1. The petitioners are aggrieved by the order dated 07/09/1998, delivered by the learned Maharashtra Revenue Tribunal, Aurangabad, by which, case No. 40/B/97/B has been dismissed for want of jurisdiction.

2. This Court by judgment delivered in *Shivraj Manik Bargale and others Versus Shankar Hanumant Hude and another* ***[2002 (2) All M.R. 312]***, has held that notwithstanding, the amendment carried out in Schedule J of the Maharashtra

Land Revenue Code, the jurisdiction of the Maharashtra Revenue Tribunal, to entertain and decide the Appeal or Revision under Section 315 will not be taken away.

3. Learned advocate for the respondents has submitted that the Maharashtra Revenue Tribunal, is now routinely taking up such Revision Applications filed under Section 315 of the M.L.R.C. read with Section 11 of the Hyderabad Atiyat Enquiries Act, 1952.

4. Learned counsel for the petitioners strenuously submits on the basis of his pleadings that the Maharashtra Revenue Tribunal, was addressed only to the extent of the jurisdiction issue. Though by the impugned order, it has concluded that it has no jurisdiction, it has also delved upon the merits of the matter.

5. Considering the above, this petition is partly allowed. The impugned order dated 07/09/1998 in case No. 40/B/97/B stands quashed and set aside and case No. 40/B/97/B stands

restored to the file of the learned Maharashtra Revenue Tribunal at Aurangabad.

7. It is informed that respondent No. 5 / Kazi Sabiuddin Kazi Inamtullah, who was respondent No. 5 before the Maharashtra Revenue Tribunal, has passed away. Mrs. Kulkarni, learned advocate submitted that this information may be treated as being due compliance of Order XXII Rule 10 A of the Code of Civil Procedure. Learned counsel for the petitioners / original revision petitioners submits that on the date of the appearance he will move an application for bringing LRs of the deceased respondent No. 5 on record before the Maharashtra Revenue Tribunal, Aurangabad.

8. Learned advocates for the respective sides agree to appear before the Maharashtra Revenue Tribunal at Aurangabad on 11/08/2017 at 11.00 a.m. As such, formal notices need not be issued by the Maharashtra Revenue Tribunal, except to the LRs of the deceased Kazi Sabiuddin Kazi Inamtulla. Needless to state, since the impugned order dated

07/09/1998, has been quashed and set aside, the Maharashtra Revenue Tribunal shall decide the Revision Petition of the petitioners on its own merits.

9. Learned advocates jointly submit that the Maharashtra Revenue Tribunal may decide the Revision within a stipulated time frame. I am inclined to accept this request as the Revision is of 1997. The Maharashtra Revenue Tribunal shall, therefore, decide the Revision Application as expeditiously as possible and preferably on / or before 28/02/2018. Until then, the protection granted by this Court to the petitioners by order dated 13/10/1998, shall continue till the disposal of the Revision Application. The said interim order reads as under :

> *"In the meantime, possession of the petitioners not to be disturbed."*

10. Considering the rival contentions of the parties that the agricultural land at issue is of about 40 Acres, the petitioners shall not create any third party interest and shall not alienate the said property till the decision in the Revision Application.

This embargo shall apply even to the assignees or representatives of the petitioners.

11. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

S.P.C.