

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2034 OF 2017

Radhakisan S/o Appa Kasar

Petitioner

Versus

Tahsildar, Sangamner and others

Respondents

Mr. V.J. Dixit Sr. advocate I/b Mr.S.V. Dixit advocate for the petitioner

Mr. S.G. Karlekar, AGP for Respondents

Mr. A.S. Bajaj advocate for intervenor

CORAM : **R. M. BORDE & S. M. GAVHANE, JJ.**

(Date: August 21, 2017)

PER COURT :-

1 Heard.

2 The petitioner contends that, he is in possession of alluvial land, which is adjacent to the landed property admeasuring 38 R situated on eastern side of survey No.35(1/1/1/1) in village Ghulewadi, Tq. Sangamner, Dist. Ahmednagar. The petitioner has been allotted alluvial land under the orders issued by the Tahsildar and that the petitioner is possession of the said land. It is further contended that, by passage of time, the area of alluvial land has increased. The petitioner has tendered an application for permanent allotment of alluvial land, which is in his possession and the said application/representation is pending. The petitioner further contends that, since the alluvial land is

more than 40 R, application for allotment needs to be dealt with by the Collector. It is also submitted that, appropriate direction need to be issued to measure the said portion of the land. If the alluvial land is found to be more than 40R, the application/representation tendered by the petitioner to the Tahsidar shall have to be forwarded for decision to the Collector.

3 It has been contended by one Mathurabai Bhausahab Sevabhavi Trust Amrutnagar through its Managing Trustee Mr. H.S. Tambe, seeking intervention in the matter that, the land in possession of the petitioner is not alluvial land and the same belongs to the intervenor. The intervenor objects for the permanent allotment of the land in favour of the petitioner.

4 It would not be appropriate for concerned authorities to investigate into the factual aspects for deciding the controversy arising in the matter. It would be within the competence of the Revenue Authorities i.e. the Tahsildar and the Collector to enquire into the relevant aspects i.e. nature of land, extent thereof and entitlement of the petitioner to claim permanent allotment. Since the petitioner has already moved a representation on 7.1.2016 to the Tahsildar, seeking permanent allotment, it would be appropriate for Tahsildar to consider the issues, after extending opportunity of hearing to the petitioner as

well as the intervenor.

5 In the circumstances, we direct the Tahsidlar to deal with the representation tendered by the petitioner on 17.1.2016 and decide the same, after extending opportunity of hearing to the petitioner as well as the intervenor, as expeditiously as possible and preferably within a period of six months from today. If at all, Tahsidlar deems it appropriate, it would be open for him to direct measurement of the land. If the land in question exceeds area of 40R, it would be open for the Tahsildar to transfer the Application for determination to the Collector and it shall be responsibility of the Collector to deal with the application and decide the entitlement of the petitioner, after extending opportunity of hearing to all the parties concerned and in accordance with law expeditiously.

6 With the directions as above, the writ petition stands disposed of.

7 In view of disposal of the writ petition, pending Civil applications do not survive and stand dispose of.

(S. M. GAVHANE, J)

(R. M. BORDE, J)