

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

WRIT PETITION NO.3984 OF 2016

1. Abdul Faijubhai Shaikh,
Age 47 years, Occu. Agriculture
2. Farid Faijubhai Shaikh,
Age 45 years, Occu. Agriculture
3. Sharif Faijubhai Shaikh,
Age 42 years, Occu. Agriculture

Petitioner Nos.1 to 3 R/o Sai Plaza,
Near A.D.C.C. Bank, Rahta,
Tal. Rahta, District Ahmednagar ... PETITIONERS

VERSUS

1. Subhan Kamubhai Shaikh,
Age 60 years, Occu. Agriculture &
Household, R/o Ranjangaon Narhari,
Post Varkhed, Tal. Gangapur,
District Aurangabad
2. Afsana Bashirbhai Shaikh,
Age 57 years, Occu. Agriculture &
Household, R/o Ranjangaon Narhari,
Post Varkhed, Tal. Gangapur,
District Aurangabad
3. Rubab Nisar Shaikh,
Age 52 years, Occu. Agriculture &
Household, R/o Ganeshnagar,
Tal. Rahta, Dist. Ahmednagar
4. Bismillabai @ Abeda Issaq Shaikh,
Age 51 years, Occu. Household,
R/o Ranjangaon Narhari,
Post Varkhed, Tal. Gangapur,
District Aurangabad
5. Nasimabee Shakil Shaikh,
Age 50 years, Occu. Household,

R/o Azad Nagar, Near Jambur High School,
Malegaon, Taluka Malegaon,
District Nashik

6. Najma Arif Shaikh
Age 42 years, Occu. Household
R/o Azad Nagar, Near Jambur High School,
Malegaon, Taluka Malegaon,
District Nashik
7. Akila Rauf Shaikh,
Age 43 years, Occu. Household,
R/o Pimplas, Nagar-Manmad Road,
Tal. Rahta, Dist. Ahmednagar. ... RESPONDENTS

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Shri A.S. Barlota, Advocate holding for
Shri A.P. Bhandari, Advocate for petitioners
Shri Avinash N. Patil, Advocate holding for
Shri S.P. Chapalgaonkar, Advocate for respondent Nos.1 to 6
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CORAM: S. B. SHUKRE, J.

DATED: 20th January, 2017.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the parties.

2. It is seen from the impugned order that the learned Civil Judge has not considered appropriately the effect of regularisation order dated 5/3/2010 and the permission granted for construction, dated 7/7/2011 in their proper perspective. If the regularisation is done and sanction to make construction on the property is also accorded, the property which has already lost

its character as an agricultural land would gain in its valuation, manifold. The regularisation order dated 5/3/2010 clearly states that the property in question was converted into non-agricultural user w.e.f. 5/3/2010. The learned Civil Judge, however, has not considered this material fact in determining the valuation of the property and relied upon the revenue assessments, which in fact were irrelevant at a time when the property lost its agricultural character. The matter, therefore, deserves to be remanded back for fresh consideration in accordance with law.

3. In the result, the Writ Petition is allowed. The impugned order is quashed and set aside. The matter is remanded back to the learned Civil Judge for fresh consideration and decision in accordance with law within three months from the date of receipt of this order. Rule is made absolute in above terms. No costs.

(S. B. SHUKRE)
JUDGE