

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

WRIT PETITION NO. 9539 OF 2015

1. Chandrakant Kashinathappa Biradar .. Petitioners
Age.50 years, Occ. Agriculture
2. Navnath Kashinathappa Biradar
Age. 47 years, Occ. Service
3. Ratnabai Kashinathappa Biradar
Age. 67 years, Occ. Agriculture,
All R/o. Sangamwadi, Tq. Chakur,
Dist. Latur.

Versus

1. The State of Maharashtra .. Respondents
Through its Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai.
2. The Collector, Latur.
3. The Special Land Acquisition Officer,
Suvarna Project, Latur.
4. The Deputy Director of Land Records,
Aurangabad.
5. The District Superintendent of Land
Records, Latur.
6. The Talathi, Sangamwadi,
Tq. Chakur, Dist. Latur.

7. Nirmalabai Madhav Wadkar
Age. Major, Occ. Agriculture,
R/o. Harkurnagar, Ganganiwas,
Udgir, Dist. Latur.

Mr.A.B. Kale, Advocate for the petitioners.
Mr.S.R. Yadav (Lonikar), AGP for respondent/State.
Mr.S.S. Manale, Advocate for respondent No.7.

CORAM : S.B. SHUKRE,J.
DATED : 23.02.2017

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally by consent.

2. The orders dated 17.12.2012 passed by the Dy. Director of Land Records, Aurangabad and order dated 09.06.2015 passed by the Appellate Authority exercising delegated powers conferred by Hon'ble Minister are under challenge in this petition.

3. The order dated 17.12.2012 decides something which was not really prayed for in direct terms in memo of appeal. However, more important fact which emerges in this case is that the appeal that was filed by respondent No.7 before the Dy. Director of Land Records was accompanied by an application for condonation of delay and the application admittedly was never decided by the

learned Dy. Director of Land Records. This being the position, I am of the view that the order dated 17.12.2012 itself is an order which has been passed without jurisdiction and therefore such order cannot be sustained in the eye of law. If this is so, the order dated 09.06.2015 will also have to go.

4. In view of above, the writ petition is allowed with costs. The impugned orders are quashed and set aside. The matter is remitted back to the Dy. Director of Land Records, Aurangabad, for deciding the appeal afresh in accordance with law, after giving opportunity of hearing to the rival parties. All contentions are kept open. Liberty to make an application for amendment, if required, is also granted, and if such application is made, same shall be considered in accordance with the law. The learned Dy. Director of Land Records shall decide the appeal within two months from the date of appearance of parties before him. The parties shall appear before him on 10.03.2017.

5. Rule made absolute in these terms.

[S.B. SHUKRE, J.]