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

WRIT PETITION NO.5372 OF 2013

Akash s/o Kailaschand Agrawal
and anr.

..PETITIONERS

VERSUS

Panchshilabai @ Shila Vishwanath
Jangam and anr.

..RESPONDENTS

Mr G.K. Thigle Naik, Advocate for petitioners;
Mrs S.D. Tambat-Dhumal, Advocate for respondent no.1

**WITH
WRIT PETITION NO.10413 OF 2012**

Panchshilabai w/o Vishwanath Jangam ..PETITIONER

VERSUS

Akash s/o Kailaschand Agrawal
and ors.

..RESPONDENTS

Mrs S.A. Dhumal-Tambat, Advocate for petitioner;
Mr G.K. Naik-Thigle, Advocate for respondent no.1;
Mr A.P. Basarkar, A.G.P. for respondents no.4 & 5

CORAM : NITIN W. SAMBRE, J.

DATE : 6th November, 2017

ORAL ORDER:

On 21st August, 2013, this Court, while issuing Rule in the petition, having regard to the provisions of Sections 5 (3) and 3 (1) of the Bombay Inferior Village Watans Abolition Act, 1958 has observed that the power under the said Act is required to be exercised by Collector.

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2. The Court then stayed the order impugned passed by the Deputy Collector Land Reforms, whereby sale between the petitioners and respondent was disapproved and mutation was ordered.

3. It is not in dispute that in case of regular transaction, pursuant to the provisions of the aforesaid Act vests with Collector to evict such unauthorized occupants summarily, by taking recourse to section 59 of the said Act. Appropriate support, to that effect, can be drawn from the Division Bench judgment of this Court, in the matter of **Vithal Kondhalkar vs. State of Mah. & ors.**, reported in **1981 Bom. C.R. 32**.

4. Since the petitioners have raised an issue as regards competency of the authority viz. Deputy Collector Land Reforms to pass the order impugned, in the wake of above referred legal submissions, in my opinion, it will be appropriate to quash and set aside the order impugned, particularly when the original objector has already extended consent for regularization of the sale in favour of the petitioners.

5. However, the fact remains that there is no approval of the competent authority for the purpose of effecting sale transaction in question.

6. In view thereof, without holding that the sale in question is legal, in my opinion, it will be appropriate to grant liberty to the parties to the petition to approach Deputy Collector Land Reforms, Jalna or any other competent

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authority in the matter, to get the sale regularized under the said Act and under the provisions of the Maharashtra Land Revenue Code and Rules framed thereunder. Thus, the impugned orders are quashed and set aside with liberty as aforesaid.

7. Learned Counsel appearing on behalf of the petitioners informs that such proceedings for regularization of sale would be initiated before the competent authority, within a period of three months from today.

8. If proceedings as aforesaid are initiated, time consumed in prosecuting the present proceedings before this Court be considered, in case an issue of limitation arises.

9. Needless to say that this Court has not gone into legality and validity of the impugned orders.

10. Writ Petitions stand disposed of accordingly.

11. In view of disposal of petitions, pending Civil Applications do not survive and stand disposed of accordingly.

(NITIN W. SAMBRE, J.)