

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8121 OF 2016

Shri. Sanjay Sidhu Ade

..Petitioner

Versus

The State of Maharashtra and others

..Respondents

Mr. Vijay Killedar for the Petitioner.

Mr. S. D. Rayrikar, AGP for the Respondent Nos.1 and 2.

Mr. P. M. Arjunwadkar for the Respondent Nos.3 & 4.

Mr. Tauffic C. Jamadar – Respondent No.3 present.

CORAM : R. M. SAVANT, J.

DATE : 14th FEBRUARY, 2017

PC.

1 The above Writ Petition takes exception to the order dated 18.02.2016 passed by the Additional Collector, Kolhapur. By which order, permission was granted to the Respondent Nos.3 and 4 to utilize the plots of land in question i.e. Plot Nos.'B' and 'C' in Block/Gat No.2260 of village Abdullat, Taluka Shirol, District Kolhapur for industrial purposes which permission was granted under Section 63-1A of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (old Bombay Tenancy and Agricultural Lands Act, 1948). The said order has been challenged principally on the ground that the order dated 18.06.2010 passed by the Sub Division Officer, Ichalkaranji, granting NA permission to the original owner Nigonda Babgonda Patil and especially clause (1) thereof has not been

taken into consideration. The said clause (1) postulates that if the land is to be used for any other purpose other than residence, then the permission of the authority would have to be taken.

2 After the above Petition was argued for sometime, the Learned Counsel appearing for the Respondent Nos.3 and 4 Mr. P. M. Arjunwadkar on instructions of the Respondent No.3 Mr. Tauffic C. Jamadar who is personally present in Court states that the Respondent Nos.3 and 4 have no objection to the impugned order being set aside and the matter being relegated back to the Additional Collector, Kolhapur for a de-novo consideration of the application filed by the Respondent Nos.3 and 4. In view of the said statement made by Mr. P. M. Arjunwadkar, it is not necessary to consider the impugned order on merits. The impugned order dated 18.02.2016 is accordingly quashed and set aside and the following directions are issued :-

- I) The application filed by the Respondent Nos.3 and 4 under Section 63-1A of the Maharashtra Tenancy and Agricultural Lands Act, 1948, would be considered de-novo by the Additional Collector, Kolhapur, having regard to the order dated 18.06.2010 passed by the Sub Divisional Officer, Ichalkaranji. The said Application would be considered by

affording opportunity to both the parties i.e. Petitioner and the Respondent Nos.3 and 4 herein.

II) The contentions of the parties including the contention of the Respondent Nos.3 and 4 that on the application of the provisions of Section 44A of the Maharashtra Land Revenue Code, it is not necessary for them to seek permission and the contentions of the Petitioner opposing the said contention are kept open for being urged before the Additional Collector, Kolhapur. The Additional Collector, Kolhapur would take into consideration the contentions of the parties and thereby pass a speaking order dealing with the said contentions.

III) The parties to appear before the Additional Collector, Kolhapur on 22.02.2017 at 3.00 p.m. The Additional Collector, Kolhapur, thereafter to decide the application within four weeks of 22.02.2017 i.e. on or before 22.03.2017.

IV) Since the order dated 18.02.2016 has been set aside, the effect would be that there is no permission for industrial

user, the Respondent Nos.3 and 4 therefore would not be entitled to operate their power-looms pending the consideration of their application and the right of the Respondent Nos.3 and 4 would be contingent upon the decision that would be rendered by the Additional Collector, Kolhapur. The Additional Collector, Kolhapur to decide the application on its own merits and in accordance with law.

3 With the aforesaid directions the Writ Petition is disposed of.

4 The Learned AGP Mr. S. D. Rayrikar to inform the office of the Additional Collector of the aforesaid developments forthwith.

5 The parties to act on a copy of this order duly authenticated by the Court Shirestedar.

[R.M.SAVANT, J]