

DDR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 84 OF 2008

Shri Anil Khushalchand Chhajed .. Petitioner
Vs.
The Tahasildar, Baramati .. Respondent

.....
Mr. S.M. Oak i/by Mr. Sagar Johsi for the petitioner.

Mr. O.M. Kulkarni, AGP for respondent No.1.
.....

CORAM : M.S. KARNIK, J.

DATED : 1st NOVEMBER, 2017

ORDER :

Heard learned Counsel for the petitioner and learned AGP for the respondent. The petitioner is aggrieved by the order dated 29th March, 2007 passed by the Tahsildar, Baramati. The petitioner had preferred an application under section 70 (a) of the Maharashtra Tenancy and Agricultural Lands Act, 1948 for declaring them as agriculturists. In support of the application the petitioner relied upon the 7/12 extracts which indicates that against the name of Anil Khushalchand Chhajed an area of 0.20 R is shown. Learned Counsel for the petitioner has invited my attention to the impugned order and pointed out that the Tahsildar has not properly appreciated the said 7/12 extract in support of the claim of the petitioner. The

Tahsildar has taken into consideration the area which was shown against the name of Rameshchandra Khushalchand Chhajed. Though 7/12 extract specifically mentioned an area of 0.20 R in the name of the petitioner, the said aspect appears to have not been considered by the learned Tahsildar.

2. Learned AGP on the other hand supported the impugned order. In his submission, against the order of the Tahsildar there is a remedy of filing appeal under the provisions of the said Act. However, against an order passed under section 70 (a) of the said Act, no provision has been pointed out under which such appeal can be filed.

3. The learned Tahsildar has not adverted to the 7/12 extract relied by the petitioner in the context of the petitioner's name specifically figuring in the 7/12 extract. In the interest of justice, in my opinion, the matter needs to be remanded back to the Tahsildar, Baramati, for deciding the controversy fresh in the light of the 7/12 extract relied upon by the petitioner. Hence the following order :-

ORDER

1. The impugned order dated 29th March, 2007 passed by the Tahsildar, Baramati, Pune, is quashed and set aside.

2. The application under section 70 (a) of the Maharashtra Tenancy and Agricultural Lands Act, 1948 filed by the petitioner is remitted back to the Tahsildar, Baramati, Pune, for deciding the matter afresh on its own merits and in accordance with law.

3. The petitioner undertakes to appear before the Tahsildar, Baramati, Pune, on 20th November, 2017 at 11.00 a.m..

4. Needless to mention that the Tahsildar, Baramati, Pune, may decide the matter on its own merits uninfluenced by what has been observed by this Court.

5. Writ Petition is partly allowed.

6. Rule is partly made absolute with no order as to costs.

(M.S. KARNIK, J.)