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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9123 OF 2014

1. Ramjan Sandu Tadvī (died) PETITIONERS

2. Nawab @ Nabu Sandu Tadvī (died)

Legal heirs of both the petitioners

3. Jasubai Nawab @ Nabu Tadvī
Age - 69 years, Occ - Agriculture

4. Samser Nawab @ Nabu Tadvī
Age - 54 years, Occ - Agriculture

5. Yesubai Nawab @ Nabu Tadvī
Age - 52 years, Occ - Agriculture

6. Nazir Nawab @ Nabu Tadvī
Age - 49 years, Occ - Agriculture

7. Raju Nawab @ Nabu Tadvī
Age - 47 years, Occ - Agriculture

All R/o Giradgaon, Taluka - Yawal,
District - Jalgaon

VERSUS

1. The State of Maharashtra RESPONDENTS
Through its District Collector,
Jalgaon, District - Jalgaon

2. The Tahsildar, Raver,
Yawal Taluka - Yawal, District - Jalgaon

3. Smt. Drupadabai w/o Tukaram Zatake
Age - Major, Occ - Household
R/o Kingaon (Bk), Taluka - Yawal,
District - Jalgaon
Through GPA holder
Tukaram Onkar Zatake

Age - Major, Occ - Agriculture
R/o Kingaon (Bk) Taluka - Yawal
District - Jalgaon

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Mr. Vijay B. Patil, Advocate for the petitioners
Mr. S. P. Tiwari, AGP for respondent - State
Mr. V. T. Chaudhari, Advocate for respondent No. 3
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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 17th JULY, 2018

ORAL JUDGMENT :

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

2. There is no particular dispute in respect of factual aspects in the matter that in 1968 land had been transferred by predecessors of present petitioners to one Bhagwat Pitambar Borse who subsequently had sold said land to present respondent No. 3 in 1973. After enforcement of Maharashtra Restoration of Lands to Scheduled Tribe Act, 1974. There had been order by an authority to restore lands pursuant to provisions of aforesaid enactment. Order by the authorities had been challenged before high court by respondent No. 3 and the high court had remanded the matter for inquiry afresh. Thereupon, Tahsildar had carried out fresh inquiry and passed

order in favour of predecessors of present petitioners. However, in revision arising from the proceedings, Maharashtra Revenue Tribunal had set aside the order and had remanded the matter again to Tahsildar. Once again Tahsildar decided to restore the land to predecessors of present petitioners. Aggrieved by said decision, revision had arisen before Maharashtra Revenue Tribunal and the Tribunal under its order dated 8th February, 1993 had held lands are not liable for restoration at all and had dropped the proceedings.

3. Against aforesaid order dated 8th February, 1993 of the Tribunal, the present petitioners had filed review, however, had not attended to the same and the review came to be rejected by the Tribunal on 2nd December, 1994. It is thereafter present petition has been preferred in July, 2014.

4. Mr. Patil, learned advocate for the petitioners, contends that having regard to that the petitioners are tribals and are ignorant, they were not aware of that movement would have to be made against orders passed in 1993 and 1994. He submits that the fact that the petitioners being poor and labourers should receive its due. He further submits that the petitioners realized that orders passed by the Tribunal in 1993 and 1994 will have to

be posed with challenge in further proceedings after publication of news in daily newspaper "*Divyamarathi*" on 7th June, 2012. They became aware of that the State Government had extended time limit for filing proceedings for restoration of lands. Accordingly, they had approached Tahsildar's office and had collected information, taken efforts and this petition had been moved. He, therefore, urges to intervene in the matter and consider the request made under the writ petition.

5. Mr. V. T. Chaudhari, learned advocate appearing for respondent No. 3, at the outset, submits that the very claim of petitioners being tribals has no basis and has been considered to be so under the orders of the Tribunal. This very relevant aspect involved in the matter has not been touched upon anywhere in the writ petition. He submits that there involves enormous delay and laches and there is no veracity underlying the claim being made about the petitioners being poor and ignorant, about proceedings to be taken up or otherwise. He submits that the petitioners and their predecessors were wise enough to prosecute the matter thrice and while they realized that there is no point in moving ahead after the final verdict had been rendered by the Tribunal in 1993 / 1994 and had, therefore, abandoned their efforts to stake claim to the property as tribals.

He submits that the cause being shown about news item making them aware about extension of time limit in 2012, is also an untenable excuse for the same would not benefit the petitioners in any way. It is absolutely not applicable to the petitioners' case. He submits that there is no other reason beyond the petitioners being poor and ignorant. He submits that having regard to the decision having been rendered on merits by the Tribunal and there has been attempt to challenge the same in review, it would not be said that petitioners were poor and ignorant. They had not been successful in the same. The petitioners are now estopped from challenging final orders after such a huge lapse of time. He submits that in fact petition would be a case of abuse of process of law. He submits that apart from aforesaid, delay and laches have not been properly explained at all. There is no substance in the claim of petitioners being ignorant having regard to prosecution had lasted at their instance for almost seventeen years from 1977 to 1994 and at least had three rounds and had been abandoned thereafter. It is not a case that petitioners were not aware of that adverse orders will be required to be challenged before higher authority or court. Plea of ignorance being claimed by the petitioners is not available to them and is certainly not a good and sufficient

reason after so much of lapse of time. He submits that ignorance and the poor economic conditions are merely subterfuge and having no semblance of truth in the same.

6. Learned AGP submits that going by the events as those have occurred from 1968 to 1994, there appears to be quite long lapse of time and the matter appears to be hit by delay and laches. In the circumstances, he supports respondent No. 3.

7. It appears, there had been at least three rounds of litigation and in all the stages beyond Tahsildar's stage the petitioners could not succeed any further. Final order has been passed on merits by the Tribunal and that had although been attempted to be challenged, it had not fructified. The matter further had not been prosecuted at all. Beyond that the petitioners being ignorant and poor, there are no reasons. Even said claim had not been lent credence with any supporting material. Regard may be had to that cause being given for now approaching this court, been publication of news item in 2012, yet, even approach is made two years thereafter. In the absence of any credible material being placed on record in support of cause for inability, in approaching the court within reasonable time, it appears that it would not be proper for this court to

indulge into request being made under the writ petition.

8. Writ petition, as such, is not being entertained and is dismissed. Rule stands discharged.

[SUNIL P. DESHMUKH, J.]

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