IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.7495 OF 2018

01 Pandurang Balbhim Bale,
age: 60 years, Occ: Agri.;

02 Sopan Bajirao Bale,
age: 50 years, Occ: Agri.,;

03 Vitthal Machhindra Bale,
age: 55 years, Occ: Agri.;

04 Kashinath Vishwanath Pathade,
age: 70 years, Occ: Agri.;

05 Shivaji Namdeo Mokase,
age: 47 years, Occ: Agri.,;

All R/o Pargaon (Jogeshwari),
Tq.Ashti, District Beed. Petitioners

Versus

01 The State of Maharashtra,
through its Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-32.

02 The Additional Commissioner,
Aurangabad Region,
Aurangabad.

03 The District Collector, Beed,
Tq. & District Beed.

04 The Sub Divisional Officer,
Patoda, Tq.Patoda, District Beed.

05 The Tahsildar, Ashti,
Tq. Ashti & District Beed. Respondents

Mr.A.N.Nagargoje, advocate for petitioners.
Mr.S.M.Ganachari, A.G.P. for Respondents.

CORAM : R.M.BORDE AND
A.M.DHAVALE, JJ.
DATE : 11th July, 2017.

ORAL JUDGMENT (Per R.M.Borde, J.) :

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The petitioners are praying to quash the order dated 06.04.2018, passed by the Sub Divisional Officer, Patoda, rejecting the application tendered by the petitioners for cancelling mutation entry bearing no.682 recorded in respect of landed property belonging to the petitioners.

3 According to the petitioners, their predecessor-in-title, by name Vishnu, had filed Return under Section 12 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, on 27.11.1975. The Surplus Land Determination Tribunal ('SLDT') passed an order on 27.04.1976 holding that deceased Vishnu was not surplus land holder. The Divisional Commissioner exercised *suo motu* powers under Sectoin 45(2) of the Ceilings Act and vide order dated 28.02.1986, directed reopening of the inquiry proceedings. It is informed that the Commissioner declared the predecessor-in-title Vishnu as surplus land holder.

4 The order passed by the Commissioner was subject matter of challenge at the instance of petitioners in Writ Petition No.4356/2003. The writ petition presented by the petitioners is disposed of and the order passed by the Divisional Commissioner,

reopening the inquiry proceedings in exercise of powers under Section 45(2) of the Ceilings Act, came to be set aside. Consequential order passed by the Commissioner declaring the predecessor-in-title of the petitioners, Vishnu, as surplus land holder also shall be deemed to have been quashed and set aside.

5 In the meanwhile, entry bearing No.682 came to be recorded on the basis of the order passed by the Commissioner, declaring Vishnu as surplus land holder. As a consequence of the determination by this Court in Writ Petition No.4356/2003, it was necessary for the revenue authorities to recall the order recording revenue entry no.682. Since, the revenue authorities did not take necessary steps, petitioner moved the Sub Divisional Officer by tendering an application requesting to correct the entries in 7/12 extract and for recalling revenue entry no.682. It was reported to the Sub Divisional Officer by the Tahsildar that after declaration to the effect that Vishnu was a surplus land holder, the land has not been distributed to landless persons and that the property is in possession of his legal heirs i.e. petitioners herein. The Sub Divisional Officer, however, refused to entertain the application for the reason that there is no specific order passed by this Court in Writ Petition No.4356/2003, directing the revenue authorities to correct the revenue record.

6 It ought to be seen that as a consequence of setting aside the order passed by the Commissioner, the original position in respect of revenue record ought to have been restored. The revenue entry no.682 has been admittedly recorded as a consequence of order passed by the Commissioner holding the

land holder Vishnu as a surplus. Since the order passed by the Commissioner has been set aside, the revenue entry bearing no.682 is unsustainable and ought to have been corrected.

7 For the reasons recorded herein above, writ petition deserves to be allowed and same is accordingly allowed. The order dated 06.04.2018, passed by the Sub Divisional Officer, is quashed and set aside. The revenue authorities are directed to correct the revenue record in accordance with the request made by the petitioners.

8 Rule is accordingly made absolute. There shall be no order as to costs.

A.M.DHAVALE
JUDGE

R.M.BORDE
JUDGE

adb/