

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.256 OF 2016

1. Munjaji s/o Ramji Shinde,
(Since deceased through LR's)
- 1-A Gunaji s/o Munjaji Shinde,
Age-58 years, Occu-Agriculture,
2. Baliram s/o Ramji Shinde,
(Since deceased through LR's)
- 2-A Ramrao s/o Baliram Shinde,
Age-Major, Occu-Agriculturist,
- 2-B Shriram s/o Baliram Shinde,
Age-Major, Occu-Agriculturist,
- 2-C Sopan s/o Baliram Shinde,
Age-Major, Occu-Agriculturist,
- 2-D Rukminbai w/o Baliram Shinde,
Age-Major, Occu-Household,
3. Sambhaji s/o Ramji Shinde,
(Since deceased through LR's)
- 3-A Govind s/o Sambhaji Shinde,
Age-Major, Occu-Agriculturist,
- 3-B Nagorao s/o Sambhaji Shinde,
Age-Major, Occu-Agriculturist,
- 3-C Dattaram s/o Sambhaji Shinde,
Age-Major, Occu-Agriculturist,
- 3-D Tukaram s/o Sambhaji Shinde,
Age-Major, Occu-Agriculturist,
All R/o Sugaon Bk.
Tq. and Dist. Nanded,
Through General Power of Attorney Holder

Wasiyoddin s/o Riyazoddin Mujawar,
Age-Major, Occu-Agriculturist,
R/o Nanded, Tq. and Dist.Nanded -- PETITIONERS

VERSUS

1. Shamsundar s/o Damodharrao Sangi,
Age-56 years, Occu-Business,
2. Suresh s/o Damodharrao Sangi,
Age-46 years, Occu-Business,
Both r/o Sarafa Galli, Nanded,
Tq. and Dist. Nanded -- RESPONDENTS

Mr.G.R.Syed, Advocate for the petitioners.
Mr.U.B.Bilolikar, Advocate for respondent Nos. 1 and 2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 15/01/2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. I have considered the strenuous submissions of the learned Advocate for the petitioners and the respondents. With their assistance, I have gone through the petition paper book.

3. The petitioners have put forth prayer clause 18-B and 18-C as under :-

"18-B. The judgment and order passed by Learned Presiding

Officer, Maharashtra Revenue Tribunal, Aurangabad Case No.1/C/2015/N dated 22/07/2015 thereby refusing to condone delay in filing Review Petition against the order dated 28/11/2006 passed on Roznama in file No.TNC/Revision-4/B/2006/N may kindly be quashed and set aside.

18-C. Application for delay condonation in review petition against the order dated 28/11/2006 passed by the then Officer in-charge i.e. Divisional Commissioner, Aurangabad Division, Aurangabad on Roznama in file No.TNC/Revision-4/B/2006/N may pleased be allowed in its entirety."

4. It appears from the record and the submissions of the litigating sides that their ancestors were before the Special Tribunal which delivered its verdict in Spl./38/E/1/58/LNG on 22/10/1960. In Tenancy Revision No.4/B/2006/N of 2006 filed by the respondents against these petitioners by way of a revision u/s 91 of the Hyderabad Tenancy and Agricultural Lands Act, 1950 and for challenging the judgment of the Additional Collector, Nanded dated 30/12/2005 in Tenancy Appeal No.2004/LR/TNC/Appeal/CR-08, a compromise was arrived at between the litigating sides on 28/11/2006. The compromise terms have been placed on record and the proceedings were disposed of by all the parties accepting the judgment of the Special Tribunal dated 22/10/1960.

5. The petitioners approached the Tahsildar for making a grievance that the compromise has not been implemented, vide application dated 08/03/2011. Since the Tahsildar concluded that he has no jurisdiction, they approached the Hon'ble Minister by filing a revision on 24/03/2013. By order dated 11/10/2013, it was concluded that the State has no jurisdiction in this matter. Hence the petitioners preferred an appeal on 15/01/2015 before the Maharashtra Revenue Tribunal, Aurangabad in Case No.1/C/2015/N alongwith an application for condonation of delay u/s 322 of the M.L.R. Code, 1966. By an order dated 22/07/2015 impugned in this petition, the M.R.T. concluded that the compromise at issue has been implemented and the parties have acted in furtherance of the terms set out therein. On the ground of delay, as well as on the merits, the application was rejected.

6. Though Mr.Syed, learned Advocate has drawn my attention to the entire history of this litigation from 1960 onwards, the fact remains that the grievance put forth is that the compromise has not been implemented and hence it needs to be set aside. Mr.Bilolikar, learned Advocate has relied upon the affidavit in reply of the respondents and has pointed out on the basis of the record that the compromise was fully implemented and the grievance of these

petitioners pertains to events which have occurred after the implementation of the compromise terms.

7. With the assistance of the learned Advocates, I have gone through the compromise terms dated 28/11/2006. On the basis of the record, Mr.Syed submits that the 3 portions of land, all admeasuring 1 acre 16 gunthas each in Gat No.129 in S.No.58 were handed over to Munjaji Ramji Shinde, LR's of Baliramji and LR's of Sambhaji Ramji. It is not disputed that it is not mentioned in the compromise terms as to how these 3 lands were to be dealt with by the LR's of those persons mentioned in the compromise terms. It is also undisputed that all the parties accepted the judgment dated 22/10/1960 delivered by the Special Tribunal. As such, it is apparent that as the respondents have handed over the 3 portions of land as agreed upon in the compromise terms and the terms were fully implemented.

8. Pursuant to the above, the petitioners are aggrieved by the fact that some amongst them sold the same lands to the respondents and did not receive sufficient consideration. It is nowhere mentioned in the compromise terms as to how those 3 portions of land were to be utilized or disposed of. As such, the grievance of these petitioners

does not have its roots in the compromise terms which were fully implemented. Their grievance that they did not receive sufficient or proper consideration for the sale of the 3 portions of the land, is a different cause of action.

9. I have considered the merits of this matter at the insistence of the learned Advocate for the petitioners who contended that the petitioners have a very good case on the merits and as such the delay of 5 years in approaching a wrong authority i.e. the Tahsildar, should be condoned.

10. I find that the application for condonation of delay filed by the petitioners is on the basis of the compromise terms purportedly having not been acted upon by the respondents, which is an unsustainable ground. Hence no purpose would be served in condoning the delay of 5 years.

11. Considering the above, this petition, being devoid of merits, is therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)