

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.42 OF 2018
(Madhusudan s/o Bhanudas Dongre and another Vs. The State of
Maharashtra and others)

Mr.Abhijit Choudhary h/f Mr.D.J.Choudhary, Advocate for the
petitioners.
Mr.S.K.Tambe, AGP for respondent Nos. 1 to 3.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 06/02/2018

PER COURT :

1. The petitioners are aggrieved by the order dated 29/09/2015 passed by the MRT in Case No.111/B/2001 by which the MRT has declined to issue directions to call for the file bearing No.TEN.Appln.Kallamb/71/32/61 from the Office of the Deputy Collector (LR), Osmanabad.

2. Grievance is that the father of the petitioner Madhusudan and Rukmanand, namely Bhanudas, had moved the proceedings in 1961 before the Deputy Collector, Land Records. By order dated 24/04/1961, the execution of the order of the Nayab Tahsildar, Land Records, Kallamb dated 13/02/1961 in file bearing No.AR/109/59-60 was stayed till the disposal of the appeal filed by Bhanudas. It is stated that Bhanudas has passed away in 1996 and his LR's have not

pursued the said matter.

3. Pradeep Hanumantrao Deshmukh / respondent No.4 herein has initiated Case No.111/B/2001 before the MRT, which is still pending. The contentions raised by the petitioners in this petition can be canvassed before the MRT notwithstanding the fact that the MRT has made a passing reference in paragraph No.5 that the appeal preferred by Bhanudas has no relevance with the dispute before the Tribunal. These observations are of superficial nature and are with regard to the request of the petitioners in their application dated 27/07/2015. The same shall therefore be restricted to the said application and the impugned order.

4. The Law does not assist a sleeping litigant. What has Bhanudas done from 1961 till his demise in 1996, cannot be considered by this Court when some proceedings are pending before the MRT initiated by Pradeep. The learned Division Bench of this Court has passed an order in WP No.6588/2015 dated 07/07/2015 thereby leaving it open to these petitioners to take steps with regard to the pending litigation.

5. Considering the above, the impugned order dated 29/09/2015

cannot be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)