

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (ST) NO. 4507 OF 2018

**Jayant
Vishwanath
Salunke**

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Salunke

Date: 2018.07.23
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The Satpati Fishermen's Sarvodaya	}	
Sahakari Society Ltd. and Anr.	}	Petitioners
versus		
The Divisional Commissioner,	}	
Konkan Division and Ors.	}	Respondents

Mr. Rupwate Sanghraj Damodar for the petitioners.

Mr. B. V. Samant-AGP for respondent nos. 1 to 3 and 6.

Mr. Rajguru with Mr. C. N. Chavan for respondent no. 5.

**CORAM :- S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

DATE :- JULY 20, 2018

P.C. :-

1. Though the petitioners were given sufficient opportunity to file a rejoinder affidavit, no rejoinder affidavit has been filed.

2. Today also, a request for adjournment is made on the same ground and by highlighting the fact that though the State Government has filed an affidavit and in the affidavit, a statement is made by the Tahsildar, Palghar that by the terms of lease dated 18th December, 1978, the petitioners were to use this leasehold land for the purpose of manufacture of salt. Firstly, it was found that the petitioners were not using part of the leasehold land

admeasuring 63 acres (25.2 hectares) for manufacture of salt. Therefore, for breach of condition no. 4, steps were taken to resume this land and to the extent of 63 acres. The order of resumption was passed by the Additional Collector, Thane on 15th September, 1991, which was challenged in an appeal before the Divisional Commissioner, Konkan Division. He dismissed the appeal on 27th November, 1992. Accordingly, that portion of the land was resumed by the State Government and reliance is placed upon a copy of the Mutation Entry No. 929 dated 8th January, 1993 and the 7X12 extract.

3. Therefore, this land is now resumed and we will not allow the petitioners to argue that there is no resumption order nor is there any record of such proceedings, in which the resumption order is passed. In fact, the petitioners themselves have filed an appeal against such an order of resumption. In these circumstances, when that part of the land has already been taken in possession and later on notified as a reserved forest, then, we do not think that the petitioners deserve any relief.

4. Then, it is stated that after declaring an area of 58.45 hectares land out of the remaining land of 76.8 hectares, that is also proposed to be taken by the State Government for establishment of reserved forest. Now, 18.35 hectares land is

remaining for being offered under the Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971. The powers in that behalf vest in the State Government. It is well settled that such lands cannot be disposed of in favour of the petitioners alone for the Government would have to abide by the judgment of the Hon'ble Supreme Court in the case of *Akhil Bhartiya Upbhokta Congress vs. State of Madhya Pradesh and Ors.*¹. The Government can also resort to its rules enabling disposal of Government lands, but in those rules as well, an open, fair and transparent procedure is notified and interested parties have to be informed by public notice that such lands are available for disposal, that they can apply within the time stipulated in the public notice and that an auction would be held for such lease. It is only in terms of the law laid down by the Hon'ble Supreme Court and by following the rules that the disposal can come through and not otherwise.

5. In these circumstances, we do not think that any useful purpose would be served by granting further time to Mr. Rupwate to file any rejoinder. The petitioners, even after claiming to be in physical possession of the land, derive no right, much less any title in their favour after the affidavit of the Tahsildar, Palghar and which is on record since 22nd June, 2018.

1 AIR 2011 SC 1834

6. We find no merit in the writ petition and it is dismissed.
There would be no order as to costs.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)