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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8688 OF 2015

Deepak V. Pingale & Anr.	...Petitioners
V/s.	
Pratap S. Chumbale & Ors.	...Respondents

Mr.R.M. Haridas for the Petitioners.

Mr.P.S. Dani, Senior Counsel with Mr.Sanjiv Sawant for the Respondent No.1.

Mr.Sachin Payade with Mr.Girish Agarwal for the Respondent No.2.

Mr.S.H. Kankal, A.G.P. for the State – Respondent Nos.3 and 4.

CORAM : R.D. DHANUKA, J.
DATE : 16TH JULY, 2018.

P.C. :-

1. Pursuant to the order dated 19th March, 2018 passed by this Court, the respondent nos.3 and 4 have filed an additional affidavit dated 19th June, 2018 stating that no Government approval is necessary for non-agricultural use of the land or sale of the land which is classified as “Deosthan Inam Class-3” of “Grant of Soil” nature. A reference is also made to a letter dated 10th March, 2003 from the State Government to the Collector, Nashik in that regard. However, in the said paragraph, it is also stated that the Collector shall verify the status of the land at his level and act accordingly as per the opinion

of the Law & Judiciary Department. A copy of the said letter is annexed to the affidavit in reply.

2. In view of the position clarified by the respondent nos.3 and 4 in the additional affidavit dated 19th June,2018, Mr.Dani, learned senior counsel appearing for the respondent no.1 states that his client would make a fresh application for permission before the learned Collector for N.A. use / change of user. He however, submits that the learned Collector shall not thereafter refer the matter to the State Government again for the purpose of approval or for any other directions in that regard. It is also urged by the learned senior counsel that the opinion of the Law and Judiciary Department referred in Exhibit "1" to the additional affidavit was not binding on the parties and thus the learned Collector shall not be issued any such directions to follow the opinion of the Law and Judiciary Department. The statement made by the learned senior counsel for the respondent no.1 is accepted.

3. The respondent no.1 would be at liberty to make a fresh application for seeking approval for N.A. use / change of user to the Collector, Nashik. If any such application is made by the respondent no.1 for permission to use the land in question for non-agricultural purpose or for change of user, the learned Collector, Nashik shall himself decide the said application and shall not seek any further

approval from the State Government on such application for permission, if made by the respondent no.1. Learned Collector shall not be bound by the opinion of the Law and Judiciary Department while considering such application and shall decide such application on its own merits and in accordance with the provisions of the Maharashtra Land Revenue Code, 1966.

4. The statements made by the respondent nos.3 and 4 in the additional affidavit dated 19th June, 2018 are accepted. However, the directions to the Collector that the Collector shall act according to the opinion of the Law and Judiciary Department is not accepted by this Court.

5. In view of the aforesaid position, the impugned order passed by the learned Minister (Revenue & Forest) on 17th June, 2014 on the application No.DEV/0912/PK84/L-6 is set aside.

6. All the contentions of both the parties on merits of the application that is proposed to be made out by the respondent no.1 are kept open.

7. The respondent no.1 is at liberty to file such application within two weeks from today. If such application is made by the respondent no.1, a copy thereof shall be served upon the petitioner's advocate simultaneously. Learned Collector, Nashik shall decide the said application expeditiously and not later than three months from

the date of making an application. Appropriate order shall be passed by the Collector, Nashik in accordance with law and after hearing the objections, if any, of the petitioner.

8. The writ petition is disposed of in aforesaid terms. There shall be no order as to costs.

9. All the parties including the Authorities to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)