

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 92 OF 2017
IN
WRIT PETITION NO. 5306 OF 2013
WITH
WRIT PETITION NO. 5306 OF 2013.

Jijabai Vitthal Desale and Others. ..Petitioners.

Versus

Rupsing Indrasen Bokad and Others. ..Respondents.

Mr. Rajiv Chavan, Senior Advocate with Priyanka Chavan and Anupama Pawar I/b Sameer Patil for the Petitioner.

Mr. A. A. Garge alog with Tejashri Joshi for the Respondents.

Coram : RANJIT MORE, J.

Date : November 30, 2018.

P. C. :

1. Heard. The petition is filed seeking review of the order dated 30th September 2013 passed in Writ Petition No.5306 of 2013. The proceedings arises out of orders passed in a proceeding taken out under the provisions of Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. The Petitioner claims to have purchased the subject land and obtained possession thereof from the Respondents on 9th July 1969. The Additional Tahsildar, Ulhasnagar,

however, restored the said lands to the Respondents by the order dated 30th March 1979 exercising its power under section 3 of the said Act. The order of the Tahsildar is confirmed in an appeal before the Maharashtra Revenue Tribunal. The order of the Tahsildar as well as the order passed by MRT is challenged in the above writ petition. However, the said writ petition is dismissed by the order dated 30th September 2013, which order is under review.

2. At the outset, Mr. Chavan, learned counsel for the Petitioner submitted that the subject land is situated in Murbad taluka and therefore the jurisdiction to entertain the proceedings under the said Act is vested in Tahsildar, Murbad. Despite this, the proceedings were initiated before the Tahsildar, Ulhasnagar and the order dated 30th March 1979 came to be passed.

3. Mr. Chavan, learned senior counsel for the Petitioner further doubted the existence of said order inasmuch as neither the certified copy nor any record is available in the office of Tahsildar, Ulhasnagar.

4. In above fact-situation, Mr. Garge, learned counsel for the Respondents states that his clients have no objection to revoke the

order under review and remand the matter back to MRT for afresh disposal in accordance with law. He places on record communication dated 23rd July 2018 received by the advocate on record from the Respondents.

5. In the above facts and circumstances, I dispose of the review petition and writ petition by passing following order :

-: O R D E R :-

- [A] Review petition is allowed. The order dated 30th September 2013 passed in Writ Petition No. 5306 of 2013 is revoked. The writ petition is restored to the file.
- [B] (i) Writ Petition No.53506 of 2013 is allowed.
- (ii) The order passed by the MRT in an appeal bearing Restoration Appeal No. 117/D/2002, [being order dated 6th April 2013] is quashed and set aside.
- (iii) Matter is remanded back to MRT for afresh disposal.
- (iv) The MRT shall decide the said appeal as expeditiously as possible and preferably within the period of 12 weeks from the date of receipt of a copy of this order.
- (v) This order shall not be construed as an expression of any opinion on the merits of the matter and all points and contentions of the respective parties are kept open.
- (vi) Till the decision of MRT on the aforesaid appeal,

both parties shall maintains status quo with regard to the subject land.

[RANJIT MORE, J.]