

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4889 OF 2015

(RAMCHANDRA GHULARAM CHOPANE...VS.. TAHSILDAR, MAREGAON & 2 OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.D.Zoting, Advocate for Petitioner.
Shri A.M.Kadukar, A.G.P. for Respondent Nos. 1 & 3.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 02, 2018.

Heard.

The petitioner (non-tribal) has challenged the order passed by the Tahsildar directing him to restore the agricultural land to the respondent No.2(tribal). The order passed by the Maharashtra Revenue Tribunal dismissing the appeal filed by the petitioner is also challenged. The challenge to the order is on the following grounds:

- i) That the undertaking required to be given by the tribal under Section 3(3) of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (hereinafter referred to as "the Act of 1974") is not given by the tribal.
- ii) The application for restoration of the possession of the agricultural land in question was filed by only one of the legal representative of the original land owner and the other legal representatives have not filed application alongwith him.

- iii) The original applicant/ tribal has not produced Caste Validity Certificate to substantiate that he belongs to Scheduled Tribe.

3. As far as point Nos. (ii) and (iii) are concerned, I find that the objection based on these issues was not raised before the Tahsildar and the Maharashtra Revenue Tribunal. Therefore, I am not inclined to consider the challenges raised on these two points. As far as non-compliance of the provisions of Section 3(3) of the Act of 1974 is concerned, the learned advocate for the petitioner has not been able to point out that the requirement as per Section 3(3) of the Act of 1974 is that the undertaking should be given by the tribal at a particular stage. Even if undertaking is not given by the tribal, the agricultural land in question cannot be retained by the petitioner and it vests in the State Government. In view of the above, there is no reason to interfere with the impugned order.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE