

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

M.C.A. NO.296/2017
IN
WRIT PETITION NO.1095/2015 (D)

Suresh Ganpatrao Borkar and others
..Vs..
Hirkanabai W/o Shankar Sayam and another

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 the petitioners.
Ms. H.N. Prabhu, A.G.P. for respondent No.2.

CORAM : Z.A. HAQ, J.
DATE : 16.1.2018.

Heard.

The original petitioners seeks review of the judgment passed by this Court on 29th November, 2016 by which the petition filed by them is dismissed. In the writ petition, the petitioners had challenged the order passed by the learned Additional Commissioner directing restoration of land in question to the respondent - tribal. The learned Additional Commissioner passed order regarding restoration of land to tribal, exercising his powers of revision as per Section 7 of the Maharashtra Restoration of Lands to Schedule Tribes Act, 1974 (for short "the Act of 1974").

The learned Advocate for the petitioners has submitted that while deciding the writ petition this Court

has failed to consider the submission made on behalf of the petitioners that the limitation for exercising powers under Section 7 of the Act of 1974 is of 3 years, unless revisional powers are exercised on directions of State Government. It is submitted that in the present case, the revisional powers are exercised *suo motu* by the Additional Commissioner and, therefore, the limitation would be 3 years and as the learned Additional Commissioner has re-opened the case after 3 years, the order passed by him was without jurisdiction.

After examining the matter, I find that the State Government issued a circular dated 29th October, 1994 directing the Commissioner, Nagpur Division, Nagpur to revise the cases under the Act of 1974 and then by the judgment delivered in Writ Petition No.3196/2010 on 27th January, 2011 this Court directed that the Commissioner is free to exercise the jurisdiction under Section 7 of the Act of 1974. The facts recorded in the order passed by the Additional Commissioner show that the case of the petitioners and respondent tribal is re-opened sometime in August, 2014 and then by the impugned order dated 31st December, 2014 the learned Additional Commissioner directed the petitioners to restore the possession of land in question to the respondent tribal. The action taken by the learned Additional Commissioner is in consonance with the circular dated 29th October, 1994 and as the case is re-opened on directions of the State Government, it cannot be said that the Additional Commissioner has

exercised his revisional jurisdiction *suo motu* and the limitation would be 3 years. In the judgment of which review is sought it is rightly recorded that the limitation would be of 30 years and not 3 years. It cannot be said that there is any error apparent on the face of record which necessitates review of the impugned order. The miscellaneous civil application is **dismissed**. No costs.

JUDGE

Tambaskar.