

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5979 OF 2019

SUNIL NANASAHEB GAIKWAD AND OTHERS
VERSUS
THE ADDITIONAL COLLECTOR, AHMEDNAGAR AND OTHERS.

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Shri S.V.Natu, Advocate for the petitioners.

Shri S.P.Tiwari, AGP for respondent nos.1 and 2/ State.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st June, 2019

Per Court:

1 This matter was heard at length on 19.06.2019 and was posted today for passing orders.

2 The learned advocate for the petitioners submits that since the petitioners have preferred this writ petition in peculiar circumstances and are not seeking any relief against respondent no.3, they seek liberty to delete respondent no.3. Leave to delete respondent no.3 is granted. Deletion be carried out forthwith.

3 The petitioner submits that in this case, the impugned order has been passed keeping in view some other case and is a result of a mistaken identity of the proceeding.

4 The Additional Divisional Commissioner, Nashik had delivered an order on 26.09.2016 in RTS Revision No.414/2013. The District Collector, Ahmednagar had passed an order on 13.10.2016. The petitioner preferred RTS Revision No.193/2017 before the Additional Commissioner with regard to the order dated 13.10.2016. While dealing with the said Revision Petition, the Additional Commissioner, Nashik Mr.Jyotiba Patil dealt with his own order dated 26.09.2016 and inadvertently considered RTS Revision No.193/2017 as being a review application and confirmed the order dated 26.09.2016 delivered in the matter of Vilas Bhausahab Hon vs. Appa Shankar Bidgar and the father of the petitioner Nana Bhaga Gaikwad in RTS Revision No.414/2013.

5 It is, thus, obvious that the father of the petitioner had filed RTS Revision No.193/2017 for questioning the order dated 13.10.2016 passed by the Collector and not for seeking review of the order dated 26.09.2016 passed by the Additional Divisional Commissioner.

6 It, therefore, becomes obvious that the then Additional Divisional Commissioner, Nashik Mr.Jyotiba Patil has passed the impugned order in a very casual and cavalier manner. It appears that he has not even read RTS Revision No.193/2017 and has mechanically treated it to be a review application as against his order dated 26.09.2016 and confirmed his order by disposing off RTS Revision No.193/2017.

7 The petitioners/ farmers, who are presently land less, had to

come to this court for the said purpose. Had the said Additional Divisional Commissioner Mr.Jyotiba Patil been more serious in dealing with quasi judicial matters and would have applied his mind to this case, the petitioners would not have been forced to come to this court.

8 Considering the above, this Writ Petition is allowed. The impugned order dated 31.01.2018 is quashed and set aside and RTS Revision No.193/2017 is restored to the file of the Additional Divisional Commissioner, Nashik. The petitioners, who are the legal heirs of the applicant Nana Bhaga Gaikwad, would appear before the said authority on 05.07.2019 at 12:00 noon and shall move an application for being impleaded as legal heirs of the deceased Nana Bhaga Gaikwad. The said authority shall issue notices to the respondents in the said matter and proceed to decide the said revision on it's own merits.

9 Considering the peculiar circumstances in which, the petitioners were forced to approach this court, the then Additional Divisional Commissioner, Nashik Mr.Jyotiba Patil shall deposit an amount of Rs.20,000/- (Rupees Twenty Thousand) before the Additional Collector, Ahmednagar within FOUR WEEKS from today.

10 Since the learned AGP submits, on instructions, that Mr.Jyotiba Patil has retired on 30.04.2019, the Additional Collector, Ahmednagar shall take steps to recover the said amount from Mr.Jyotiba Patil either directly or through his pensionary benefits and these

petitioners shall be entitled to withdraw an amount of Rs.5000/- (Rupees Five Thousand) each, without conditions, from the office of the Additional Collector, Ahmednagar.

kps

(RAVINDRA V. GHUGE, J.)