

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7600 OF 2017

1. Kumodini Govindaji Doshi, Adult. ... Petitioners.
Occu. Household,
2. Prabhat Govindaji Doshi, Adult.
Occu. Business, Both R/o. 162/17,
Railway Line, Pankabawdi, Solapur.
3. Lilavati V. Shah, Adult,
Age : Adult. Occu. Household,
Jayvijay, 61/1, Modi Baug, Ganesh Khind
Road, Pune -16. [Power of Attorney Holder :
Pandhe Construction Pvt. Ltd., through
Director Shri Ankur Anil Pandhe, Adult,
Occu.Business. R/o.157, Railway Lines,
Solapur.

V/s.

The State of Maharashtra ... Respondent.
Revenue & Forest Department,
By & through its Principal Secretary.

Mr. Y. S. Jahagirdar, Senior Advocate, a/with Mr. A. M. Kulkarni & Mr. S.S. Diwan, Advocate for the Petitioners.
Mrs. Madhubala Kajale "B" Panel Counsel for the State.

**CORAM : R.M. BORDE & V.L. ACHLIYA, JJ.
DATE : FEBRUARY 04, 2019.**

ORAL JUDGMENT : (Per : R. M. BORDE, J.)

1 Rule. By consent, the Rule is made returnable forthwith and heard finally.

2 The Petitioners are aggrieved by the order passed by the State Government on 19.08.2016, calling upon the Petitioners to deposit a sum equivalent to market value of the area of the plot in issue to the extent of 15903 square meters in accordance with the government resolution dated 20.02.2016. It is the contention of the Petitioners that the application, seeking conversion of change of user of the plot, was tendered on 12.01.2001, which remained pending for a considerable period and as such the rates prevalent on the date of tender of the application, shall apply and the petitioners shall be directed to deposit the sums, taking into consideration the ready reckoner rates prevailing in the year 2001. In order to substantiate their contentions, the petitioners placed reliance on the decision of Division Bench of this Court at Aurangabad Bench (Coram S.V. Gangapurwala & Mangesh S. Patil, JJ.) dated 28.09.2017 in writ petition no. 3019 of 2016. The Division Bench of this court in the said decision referred to the judgment of the Apex Court in a case of **Union of India & Another Vs. Mahajan Industries Limited**, reported in (2005) 10 Supreme Court Cases 203, and also the judgment of the Division Bench of this Court at Nagpur Bench in a case of **Trimbakrao Mugutrao Deshmukh Vs. State of Maharashtra and Another**, reported in 2009 (2) Bom. C. R. 467. In the case of the Mahajan Industries Ltd., the Apex Court was considering the material date that was to be taken in account while computing the conversion charges for land use

and the Apex Court had categorically held that the rates would be charged as prevalent on the date of filing of the application. In the case of Trimbakrao Mugutrao Deshmukh, the Nagpur Bench of this court held that since the application was presented for sale of the land under the provisions of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 in the year 1994 was kept pending by the government for considerable long time, the direction by the State Government to the petitioner therein to pay 'Nazarana' as per the Rules of 2001, is not proper and the relevant date for computation of amount of Nazarana shall become the date of application.

3 In the instant matter, as held by the Apex Court in the case of Mahajan Industries, since the application, seeking change of user was presented in the year 2001, whereas the directions have been issued in respect of the payment of the amount, equivalent to the market value prevailing in the year 2016 i.e. on 19.08.2016, the said order/direction passed by the State Government in respect of levy of the conversion charges as per the valuation of the property prescribed in the ready reckoner of 2016 and not as per the ready reckoner rates prevailing on the date of the application in the year 2001, deserves to be quashed and set aside.

4 In view of the reasons, as recorded above, the petition deserves to be allowed.

5 We, accordingly, allow the petition. The condition incorporated in the communication i.e. dated 19.08.2016, directing recovery of the market value in accordance with the ready reckoner rate prevailing in 2016 is quashed and set aside and the Respondents are directed to prescribe the value and compute amount payable considering ready-reckoner rates prevailing on the date of tender of the application and inform the petitioners, asking them to deposit the amount, as expeditiously as possible within the period of three weeks from today and on deposit of the amount further process, as provided in the law shall be undertaken.

6 Rule is made absolute accordingly. No order as to costs.

(V.L.ACHLIYA,J.)

(R.M. BORDE)

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