

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

917 WRIT PETITION NO.3905 OF 2020

THE STATE OF MAHARASHTRA THROUGH SECRETARY
IRRIGATION DEPARTMENT AND OTHERS

VERSUS

VYANKAT SWAROOPRAO MORE AND OTHERS

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A.G.P. for Petitioners : Mr.P.S.Patil
Advocate for Respondent Nos.1 to 14-A : Mr.Ashish B.
Rajkar

...

CORAM : S.V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 12/03/2020.

PER COURT :-

1. The petitioners assail the order of the Tribunal. One of the contentions of the learned Additional Government Pleader is that the original application is not within limitation. The said aspect is not considered. It is further contended that the respondent has given undertaking. As such in view of the judgment of the Apex Court in a case of *High Court of Punjab & Haryana and others Vs. Jagdev Singh* reported in AIR 2016 SC 3523 the recovery can be claimed .

2. The Tribunal while deciding the original

application relied upon its earlier judgment in Original Application No.382/2009. The judgment of the Tribunal in Original Application No.382/2009 is confirmed by the High Court.

3. As far as question of limitation is concerned, the same is mixed question of law and fact. The petitioners did not raise the ground of limitation before the Tribunal. The petitioners submitted to the jurisdiction of the Tribunal. Now it would be too late for the petitioners to contend that the original application is barred by the limitation, more particularly when the reliance was placed on the earlier judgment of the Tribunal confirmed by the High Court.

4. In light of the above, no case for interference. Writ Petition is dismissed. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

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