

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

3 WRIT PETITION NO.7154 OF 2021

Gopalsingh S/o Dhanusing Rajput

... Petitioner
(Respondent No.7)

Versus

The State of Maharashtra & Ors.

... Respondents

...
4 WRIT PETITION NO.7157 OF 2021

Gopalsing S/o Dhanusing Rajput

... Petitioner
(Respondent No.7)

Versus

The State of Maharashtra & Ors.

... Respondents

...

Advocate for the Petitioner: Mr. Mahesh Deshmukh holding for Mr.
Rahul R. Karpe
Mr. Kishore Hoke Patil, AGP for the Respondents/State

...

CORAM : AVINASH G. GHAROTE, J.

DATE : 12th July, 2021

PER COURT :

. Heard Mr. Mahesh Deshmukh, learned counsel holding
for Mr. Karpe, for the petitioners.

2. The present proceedings have a checkered history, inasmuch as, the predecessors of the petitioners, claimed themselves to be the tenants of one Mohamad Mehboob Ali Khan, who had also executed an agreement of sale on 19/5/1949 in favour of Ishwar Singh (Grandfather of the present petitioner). The said Mohamad Mehboob Ali Khan, had instituted a Civil Suit No. 59/1961 before the Civil Judge, Junior Division, Jalna, which came to be dismissed on 30/6/1962, in which, issues No.1,2,6,7,8 & 10 related to the agreement in favour of Ishwar Singh, his readiness and willingness, he being in possession of the property, which were all answered of the said Ishwar Singh. An Appeal against the same, was dismissed and Second Appeal No.1271/1964, was also dismissed on 20/10/1972. Thus, insofar as Ishwar Singh is concerned, in view of the judgment in Civil Suit No.59/1961, he was held to be a person in possession of the property in question, under the agreement of sale, dated 19/5/1949.

3. It is further contended, that the present petitioner had filed proceedings for recording his name in the 7/12 extract as a person in cultivating possession, in which, vide order dated

01/06/2016, it was held, that he should approach the appropriate authorities. It is further recorded in this order, that the Civil Court Jalna, in RCS No.479/1999, decided on 08/04/2002 which were proceedings filed by Dhanusingh (Father of the petitioner), a decree for permanent injunction, in his favour, was passed in respect of the subject properties. In the order dated 01/06/2016, it was also directed, that the petitioner should make an application to the Competent Authority, for recording his cultivating possession at the time of crop inspection. It is further contended, that in separate proceedings, initiated by the present petitioner, which are set to be under the provisions of the Hyderabad Tenancy Act and the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, an order was passed on 21/04/2017 by the Deputy Collector, though the proceedings were closed for orders on 16/12/2016, to the effect that the name of the petitioner be recorded as owner and cultivator of the lands in question. A challenge to this before the Additional Collector, succeeded where-under by the order dated 05/04/2021, the order of Deputy Collector dated 31/10/2018 was set aside. A further challenge, to the order of Additional Collector dated 31/10/2018, resulted in the same being set aside by the order dated 05/04/2021, of the Additional Collector Aurangabad.

A challenge to this order before the Hon'ble Minister, has resulted in passing of the impugned order dated 31/05/2021, whereby the order dated 05/04/2021, has been stayed with an antedated effect.

4. It is the contention of the learned counsel Mr. Deshmukh, that the impugned order, is bereft of any reason whatsoever, and without delving into the checkered history of the litigation, the Hon'ble Minister ought to not have stayed the order dated 05/04/2021.

5. It is not disputed, that the order dated 31/05/2021, is an interim order. It is open for the petitioner, to appear before the Hon'ble Minister, and place all the relevant material on record for enabling him to take an appropriate decision as per law. That is the course which ought to be adopted. Mr. Deshmukh, learned counsel for the petitioner, is not averse to the same. The petitions are, therefore, dismissed. However, the petitioner is at liberty to appear before the Hon'ble Minister, in Appeal No.2021/Sr.No.54/J-7 and place all the relevant documents and orders on record, which would be considered for the final decision of the matter. Mr. Deshmukh, learned counsel for the petitioner submits, that the appeal should be decided within a particular period of time, which

request is reasonable. The appeal before the Hon'ble Minister is directed to be decided within a period of six months from today. Needless to mention, that either parties shall not create any third party interest in the properties in dispute, till the decision of appeal. All contentions are kept open.

(AVINASH G. GHAROTE, J.)

Sameer