

DDR

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

WRIT PETITION NO. 2651 OF 2021

SMT. SUNDARABAI VITTHAL DURGUDE	..PETITIONER
VS.	
THE SUB DIVISIONAL OFFICER & ORS.	..RESPONDENTS

Mr. Sanjiv Sawant i/b. Mr. Samir M. Suryawanshi for petitioner.
Mr. A.P. Vanarse, AGP for respondent Nos. 1 to 3 – State.

CORAM : M.S.KARNIK, J.

**DATE : JULY 12, 2021
(VIA V.C.)**

P.C.:-

It is the case of the petitioner that by a registered agreement dated 31/5/2001, the land in question was purchased by the petitioner from one Shri Baban Kushaba Jadhav. The petitioner claims to be in possession of the suit land since then.

2. The heirs of Shri Baban Kushaba Jadhav made an application under the provisions of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. The Sub Divisional Officer (SDO) by an order dated 26/6/2015 directed restoration of the said lands in favour of the tribal by cancelling the registered agreement.

3. The petitioner preferred an appeal against the order of the SDO before the Additional Collector under the provisions of Section 247 of the Maharashtra Land Revenue Code, 1966. By an order dated 9/9/2016 the Additional Collector dismissed the Appeal.

4. The petitioner has preferred a revision application before the Additional Commissioner, Pune, under the provisions of Section 257 of the Maharashtra Land Revenue Code, 1966 in the year 2016 and it is the submission of learned counsel that same is still pending. Learned counsel for the petitioner submits that along with this revision an application for stay was preferred.

5. It is the submission of learned counsel for the petitioner that the respondent is not a tribal. Apart from other contentions that are sought to be raised, as the revision is pending before the Additional Commissioner, I refrain from going into the legality of the contentions raised by the petitioner.

6. It is, however, urged by the petitioner that, armed with the order passed by the SDO and the Additional Collector, the respondents are now trying to disturb the possession of the petitioner. It is not possible for this Court to grant any injunction

as prayed for in this Petition.

7. Suffice it to observe that the revision is pending before the Additional Commissioner, Pune. The Petition can be disposed of by directing the Additional Commissioner to decide the revision which is page 42 of the paper-book expeditiously as the same was filed as far back as in the year 2016. As is the submission of learned counsel for the petitioner, that an application for stay has been filed and which is yet to be decided, the Additional Commissioner is requested to decide the application for stay as expeditiously as possible and preferably within a period of six weeks from today.

8. The petitioner after due notice to the respondents, to appear before the Additional Commissioner, Pune, on 19/7/2021, at 11.00 a.m., along with the copy of this order. The Additional Commissioner to decide the revision on its own merits and in accordance with law.

9. It is made clear that I have not made any observations on the merits of the controversy. Considering that the petitioner is in possession of the lands since 31/5/2001, a limited protection is granted in favour of the petitioner, in that the impugned order

passed by the SDO dated 26/6/2015 is stayed for a period of two weeks from today. In view of the nature of the order passed, issuance of notice in this Petition is not necessary in my opinion.

10. It is made clear that the application for stay be decided by the Additional Commissioner in the pending revision on its own merits without being influenced by any observation made by me in this order or by grant of the limited protection.

11. Keeping all contentions open, the Petition is disposed of in view of the pendency of the revision.

(M.S. KARNIK, J.)