

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3404 OF 2000
WITH
CIVIL APPLICATION NO. 8122 OF 2021
WITH
CIVIL APPLICATION NO. 12525 OF 2021
WITH
CIVIL APPLICATION NO. 7040 OF 2001
WITH
CIVIL APPLICATION NO. 3269 OF 2019
IN
WRIT PETITION NO. 3404 OF 2000

Prabhakar Dhondiba Jadhav And Ors ...Petitioners

Versus

State Of Maharashtra And Ors ...Respondents

Mr. P.R. Katneshwarkar h/f. Mr. R.P. Dhase, Advocate for the petitioners.

Mr. S.B. Pulkundwar, AGP for State.

Mr. R.R. Shikh, Advocate for Respondent No. 8A & 8B.

Mr. P.V. Gole h/f. Mr. V.D. Gunale, Advocate for respondent No. 4.

Mr. A.A. Joshi h/f. Mr. S.V. Natu, Advocate for respondent No. 7.

Adv. A.N. Ansari, Advocate for respondent No. 5A to 5F.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 3rd OCTOBER, 2022

ORDER:

1. The dispute in the present petition pertains to land Survey No. 33 C to the extent of 4 Acres 25 Ghuntas, situated at Ahmedpur, District- Latur (for short 'said land'). It is the case of

the petitioners that their father Dhondiba was tenant and was in possession of said land prior to 1955. Respondents No. 5A to 5F, 6A to 6G and 7A to 7F, were tenants to the extent of 1 Acre 25 Ghuntas land only. Name of Dhondiba was recorded as tenant since 1960 onwards to the said land and name of Khajasahab (predecessor of respondents No. 5A to 5F, 6A to 6G and 7A to 7F)) was recorded to the extent of 1 Acre 25 Ghuntas only. Dhondiba was declared occupant of the said land by the competent authority. His name was recorded in Appendix-A register as well as mutation entry declaring his occupancy rights was certified. Petitioners are successors of Dhondiba.

2. Respondent No. 4 filed proceeding seeking inquiry under section 2-A(3) of Hyderabad Abolition of Inams and Cash Grants Act, 1954 (for short 'said Act') and sought declaration of occupancy rights of the land Survey No. 33, 34 36, situated at Village Ahmedpur, under Section 6(1-A) of the said Act. In the said proceeding, declaration was issued in favour of legal heirs of respondent No. 5 (after death of legal heirs, their legal heirs were brought on record i.e. respondents No. 5A to 5F, 6A to 6G and 7A to 7F).

3. In the said proceeding Dhondiba or petitioners being his successors were not made party by respondent No. 4, and the impugned order is passed without hearing the petitioners. The petitioners therefore seek quashing of the impugned order and remand of matter back to respondent No. 2.

4. I have duly considered the rival submissions of the respective learned advocates for the parties. Perused the record. It is clear from the record that though the petitioners had substantial interest in the said land, the petitioners or Dhondiba were not made party in the proceeding filed by respondent No. 4, in which impugned order is passed. Thus, the impugned order adverse to the interest of petitioners is passed in violation of principles of natural justice. In that view of the matter, the impugned order is unsustainable and same is liable to be quashed and set aside. Hence, the following order:-

ORDER

- i) The writ petition is allowed.
- ii) The impugned order dated 26.10.1987 passed by Deputy Collector (Land Reforms), Latur, in Case No. 83/Desk/Inam/3, to the extent of land Survey No. 33 C, admeasuring 4 Acres 25 Ghuntas, situated at

Ahmedpur, District- Latur, is hereby quashed and set aside.

- iii) The matter is remanded back to the Deputy Collector (Land Reforms), Latur, for holding inquiry and passing appropriate order, in accordance with law, after giving opportunity of hearing to the concerned parties.

5. All contentions of the respective parties are kept open.

6. Taking into consideration the fact that the order impugned in the present petition is passed in the year 1987, the Deputy Collector (Land Reforms), Latur, shall conclude the hearing and pass judgment within a period of eight weeks from the date of first appearance of the parties.

7. Rule made absolute in above terms with no order as to costs.

8. In view of disposal of writ petition, civil applications are disposed of with liberty to the applicants to approach concerned authority.

[NITIN B. SURYAWANSHI, J.]