

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4521 OF 2019

Nitin Ramesh Sonar And Another ...Petitioners

Versus

The State Of Maharashtra And Others ...Respondents

Mr. B.R. Warama, Advocate for the petitioners.

Mr. S.W. Munde, AGP for State.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd SEPTEMBER, 2022

ORDER :

1. The petitioners have challenged the order 01.02.2014 passed by respondent No. 3 in File No. 84/S.R./03/2013, confirmed by respondent No. 2 on 23.09.2014 in Tenancy Appeal No. 08/2014 and further confirmed by Maharashtra Revenue Tribunal, Aurangabad on 28.11.2018 in Case No. 58-B-2014-Jalgaon.

2. By registered sale deed dated 20.04.2013, the petitioners have purchased agricultural land bearing Gut No. 387/2, admeasuring 2 Hectare 82 Are situated at village Moharale, Taluka & District- Jalgaon, from respondent No. 4.

Accordingly, mutation entry no. 3282 is taken, however, the Circle Officer refused to grant approval to the mutation entry and referred the matter back to the Tahsildar for tacking action under section 84-C(2) of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (for short 'said Act'). By order dated 01.02.2014, Tahsildar declared the sale deed of the petitioners as void on the ground that the petitioners are not agriculturist and the sale deeds are executed without prior permission of the Collector. The petitioners have unsuccessfully challenged the said order before Sub Divisional Officer by filing appeal and revision before Maharashtra Revenue Tribunal, Aurangabad.

3. The learned advocate for the petitioner by relying on amendment in Section 84 C, submits that, the sale can be regularized if transferee pays an amount equal to 50% of the market value of such land, as per the annual statement of rates.

4. The learned Assistant Government Pleader opposed the said statement contending that said amendment is applicable to the sale transactions done immediately before the amendment or post amendment and where no order is passed. According to him in the present case since Tahsildar has passed

the order way back in the year 2014, this amendment cannot be made applicable to the case of the petitioners.

5. Perusal of affidavit in reply filed by Sub Divisional Officer shows that he has made categorical statement that the land in question is yet not resumed by the Government for disposal. He has further stated that as per the policy of Government by taking 50% of the market value of the said land, transfer or acquisition can be regularized which is in the interest of the State.

6. Taking into consideration the fact that the petitioners have challenged the impugned order and contesting said challenge in this Court since then and as there is stay operating in favour of the petitioners, in the present petition and during the pendency of the proceedings before the revenue authorities and Maharashtra Revenue Tribunal there was stay operating in favour of the petitioners, it can be safely held that the impugned order has not become final till date. In that view of the matter and in view of order passed by this Court in Writ Petition No. 10915/2019, the writ petition deserves to be allowed and same is accordingly allowed in following terms:

ORDER

(i) The writ petition is allowed in terms of prayer clause-[A].

(ii) Sale transaction/sale deed of petitioners shall be regularized by the Tahsildar, Yaval, District- Jalgaon, by accepting 50% amount of the market value of the subject land.

[NITIN B. SURYAWANSHI, J.]