

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.4849 OF 2019
WITH CA/4590/2022 IN WP/4849/2019**

**VIJAY MURLIDHAR BHAKARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mr. Sanket S. Kulkarni
AGP for Respondents – State : Mr. Y. G. Gujrathi
Advocate for Respondent No.3 : Mr. P. V. Barde

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 13th SEPTEMBER, 2022

PER COURT :

1. By this petition, petitioner impugns communication dated 25/03/2013, issued by Deputy Collector (Land Acquisition No.10), Ahmednagar, order dated 14/12/2017, passed by Divisional Commissioner, Nashik in R.T.S. Appeal No.265/2017 and order dated 28/02/2018, passed by respondent No.1 in Appeal No.2018/Pra/Kra.24/L-7.

2. Facts shorn of unnecessary details are as follows:-

Land of petitioners admeasuring 10 Acre 20 Gunthas was leased to Godavari Sugar Mills. After implementation of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (for short 'Ceiling Act'), all the lands with industrial undertakings were taken over by the State Government and were given to Maharashtra

State Farming Corporation. By way of policy decision, lands of Maharashtra State Farming Corporation were decided to be returned to original ex-lessors.

3. Pursuant to said decision, petitioner submitted application for returning of his land. At the time of lease i.e. on 02/10/1975, total area held by petitioners was 21 Acre 20 Guntha. In the year 1978, 5 Acre 16 Guntha land was returned to ex-lessor and 5 Acre 04 Guntha land was in possession of Maharashtra State Farming Corporation. Petitioner, therefore, claimed remaining 5 Acre 04 Guntha land. Request of petitioner was rejected by Deputy Collector by communication dated 25/03/2013, holding that land of petitioner as on 02/10/1975 was 21 Acre 20 Guntha and 12 Acre 12 Guntha area was converted into irrigated land. Since there is one family unit (husband, wife and three minor children), maximum land holding can be 18 Acre and only 18 Acre land can be given to petitioner. Land held by petitioner is 12 Acre 12 Guntha and earlier he was given back 5 Acre 16 Guntha land, thus, total holding comes to 17 Acre 28 Guntha. As only 18 Acre land can be given to petitioner, 12 Guntha area is liable to be returned and since it is less than 1 Acre, the same cannot be given as per Government Resolution.

4. Petitioners challenged this communication initially

before Maharashtra Revenue Tribunal, Aurangabad, which held that it has no jurisdiction. Petitioners thereafter approached this Court by filing Writ Petition No.5032/2015, wherein interim protection was granted in favour of petitioners. Thereafter, petitioners approached Divisional Commissioner, Nashik, by availing remedy under Section 247 of the Maharashtra Land Revenue Code, 1966, by filing R.T.S. Appeal No.265/2017. Divisional Commissioner dismissed the appeal filed by petitioners and respondent No.1 has dismissed revision/appeal filed by petitioners. Hence, the present petition.

5. I have considered rival submissions of learned advocate for petitioners, learned advocate for respondent No.3 and learned Assistant Government Pleader for respondents – State. Perused the grounds raised in writ petition memo and the impugned orders.

6. Record reveals that the impugned orders are unreasoned orders. Contentions and/or grounds raised by petitioners are not considered and dealt with by respondent Nos. 1 and 2, while passing the impugned orders. The contentions are reproduced in impugned orders and by relying on guideline No.4.3, which does not appear to be relevant, Divisional Commissioner has rejected the appeal of petitioners.

7. Respondent No.1 also has not at all considered and dealt with the grounds raised by petitioners in the memo of revision/appeal and by an unreasoned order has rejected the revision/appeal filed by petitioners.

8. In *Kranti Associates Pvt. Ltd. Vs. Masood Ahmed Khan and Others, (2010) 9 SCC 496*, the Hon'ble Apex Court has deprecated practice of passing unreasoned orders and has emphasised requirement of recording reasons in judicial as well as in administrative decisions, if such decisions affect any one prejudicially. Recording of reasons is held to be a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power. It is held that reasons reassure that discretion has been exercised by decision maker on relevant grounds and by disregarding extraneous considerations. When the impugned orders are passed on touch stones of above principles, they being unreasoned orders cannot be sustained.

9. Grounds raised by petitioners that they have two family units and their land is not irrigated and without classifying their land as per definition given in Section 2(5) of the Ceiling Act, it is held to be irrigated land, ought to have been considered and dealt with by Divisional Commissioner, Nashik, while deciding appeal, which is admittedly not done as is clear from the impugned order

passed by Divisional Commissioner, Nashik.

10. In the result, writ petition succeeds and is allowed in terms of prayer clause 'B'. R.T.S. Appeal No.265/2017 is restored to the file of Divisional Commissioner, Nashik Division, Nashik, who shall decide the same on merits, in accordance with law, within a period of three months from the date of receipt of writ of this order.

11. Stay granted in favour of petitioners shall continue to operate till final decision of the Divisional Commissioner, Nashik.

12. Parties shall appear before Divisional Commissioner, Nashik, on 26/09/2022. Notice in that behalf is, therefore, waived.

13. Accordingly, civil application also stands disposed of.

(NITIN B. SURYAWANSHI, J.)