

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
952 WRIT PETITION NO. 6200 OF 2018**

Govind Shankar Patil, **...PETITIONER**  
Age-80 years, Occu-Agril,  
Through his GPA  
Jitendrakumar S/o. Govind Patel,  
Age-44 years, Occu-Agril,  
Both R/o. Shrikung Madhyamik Shikshak  
Colony, Sindhi Colony, Nandurbar  
Tq. & Dist. Nandurbar

**VERSUS**

1. The State of Maharashtra, **...RESPONDENTS**  
Through The Secretary,  
Forest and Revenue Department,  
Mantralaya, Mumbai-32
2. The Collector Nandurbar,  
Dist. Nandurbar,
3. The Additional Collector,  
Sardar Sarovar Project Nandurbar,  
Tq. & Dist. Nandurbar
4. Dy. Collector,  
Sardar Sarovar Project Taloda,  
Tq. Taloda, Dist. Nandurbar
5. Ramji S/o. Nurya Vasave (Died)  
Through LRs  
Sonya S/o. Nurya Vasave  
Age-61 years, Occu- Agril,

R/o. Narbada Nagar, Post Rajvihir,  
Tq. Talod, Dist. Nandurbar

Mr. P. B. Patil, Advocate for the petitioner  
Mr. S. P. Tiwari, AGP for the respondents/State

**CORAM : RAVINDRA V. GHUGE &  
ANIL L. PANSARE, JJ.**

**RESERVED ON : 27<sup>th</sup> June, 2022**

**PRONOUNCED ON : 28<sup>th</sup> July, 2022**

**JUDGMENT [PER: ANIL L. PANSARE, J.]**

1. Rule. Rule made returnable forthwith.  
Heard finally with the consent of the learned  
counsels for the parties.

2. The petitioner prays to quash and set  
aside the order dated 13-04-2017, passed by the  
Lok Ayukta and to quash and set aside the order  
dated 27-03-2017 passed by the Collector and to  
restore the disputed land in favour of the  
petitioner. In the alternative, the petitioner  
has sought directions against the respondents to

acquire the land of the petitioner and pay the compensation.

3. The petitioner is owner and possessor of the land bearing Gut No. 44/3, admeasuring 1-H 32-R, situated at Shahada, Dist. Nandurbar. The said land was sold by registered sale deed to the respondents for a consideration of Rs.3,08,880/-. A cheque bearing No. 500226 dated 22-09-2008 for Rs. 2,93,436/- was given to the petitioner after deducting the 5% amount of Rs.15,444/-. The cheque was presented for encashment, but it was returned back with the endorsement 'insufficient funds'. Thereafter, the petitioner made number of representations to the authorities for cancellation of sale deed and restoration of his land, but in vain.

4. The petitioner claims that though the sale deed was executed, the possession of the land was with the petitioner. The petitioner filed complaint before the Lok Ayukta for restoration of his land. Pending complaint before the Lok Ayukta, the respondents offered a payment of Rs.3,08,880/- by cheque No. 312277 to the petitioner on 13-05-2015 i.e. after seven years. The petitioner refused to accept the cheque.

5. According to the petitioner, the respondent No. 2- Collector made a recommendation to respondent No. 1-State seeking approval for cancellation of sale deed of the petitioner's land, so also of other farmers. The sale deed of such other farmer namely Girdhar Patil was cancelled, but not of the petitioner.

6. Lok Ayukta rejected the prayer for cancellation of sale deed, but ordered the respondents to pay amount of compensation with interest within 60 days from the date of the order. According to the petitioner, Lok Ayukta ought to have cancelled the sale deed or ought to have ordered to make a payment as per market value.

7. The respondents pursuant to the order passed by the Lok Ayukta offered payment of Rs. 7,53,667/- on 01-09-2017. According to the petitioner, price of the land at that time was more than Rs.50 lakhs. The petitioner, therefore, did not accept the payment. It is also pleaded by the petitioner that the respondent No.2 transferred the land in favour of the respondent

No.5 prior to passing order by the Lok Ayukta. The transfer has been effected pursuant to the order dated 27-03-2017 passed by the Collector. This act, according to the petitioner, is illegal and hence present petition has been filed.

8. The respondent Nos. 1 to 4 have come up with the case that sale deed of Girdhar Patil was cancelled by the order of the Civil Judge, Senior Division Shahada and not by the respondents. The petitioner has not filed any suit for cancellation of sale deed. The sale deed having been registered, cannot be cancelled by any party without order of the competent court. The respondent Nos. 1 to 4 have supported the order passed by the Lok Ayukta.

9. We need not comment upon the legality

and validity of the order passed by the Lok Ayukta as it would not yield any result in favour of the petitioner. What appears from the record is that the respondents have offered the payment twice, but the petitioner has refused. The land in issue is vested with the respondents pursuant to the registered sale deed. Thus, remedy that was available to the petitioner was to file civil suit for recovery of money or for cancellation of sale deed, as the case may be. The petitioner did not do so. Instead, he went on making representations to the respondent authorities. It is well settled that making representations will not revive dead claims. The land under question was sold on 05-09-2008. The petition has been filed in the year 2018 i.e. after the lapse of 10 years. The petitioner cannot seek cancellation of sale deed in the writ

jurisdiction nor can he seek recovery of amount.

10. The respondents have pleaded that one such farmer namely Girdhar Patil had approached the civil court and obtained decree of cancellation of sale deed. This fact has not been rebutted by the petitioner by filing a rejoinder. Thus, sale deed of other farmer was cancelled by the competent court. There is no reason why the petitioner did not approach the civil court.

11. In essence, the petitioner's claim pertains to recovery of amount or cancellation of sale deed. These relief can only be obtained from the competent civil court. There is thus, no merit in the petition.

(9)

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12. The petition is liable to be dismissed and stands dismissed accordingly. Rule is discharged.

[ANIL L. PANSARE, J.]

[RAVINDRA V. GHUGE, J.]

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