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

931 WRIT PETITION NO.6001 OF 2022

SHRI. SITARAM DANGAL PATIL, THROUGH POWER OF
ATTORNEY HOLDER SHRI. MULCHAND VALIRAM
DALWANI
VERSUS
THE STATE OF MAHARASHTRA, THROUGH PRINCIPAL
SECRETARY AND OTHERS

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Mr K. C. Sant, Advocate for petitioner;
Mr S. K. Tambe, A.G.P. for respondents/State

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

DATE : 14th June, 2022

PER COURT:

1. Issue notice to the respondents. The learned A.G.P. causes an appearance and waives service of notice on behalf of all the respondents.

2. Considering the order that we are passing, we are recording the facts of the case in brief as under :-

(a) In 1946-47, Jijabai and her husband Kashinath were cultivating the land Gut No.378 at village Bhadane, Tq. and Dist. Dhule.

(b) Jijabai and Kashinath adopted a son and i.e. present

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petitioner Sitaram Dangal Patil. This adoption is made by Jijabai after the demise of Kashinath on 01/06/1987.

(d) Jijabai passed away on 25/05/2014.

(e) The Government has taken a policy decision to regularize encroachments on Government lands, if such encroachments have occurred prior to 1978.

(f) The above stated policy was given effect to, by various circulars issued in 1978, 1991 and 1999.

(g) On 13/05/2013, Jijabai had filed a revision with respondent No.2 – Divisional Commissioner, Nashik, seeking regularization of encroachment. The Tahsildar had rejected the said application. The revision was allowed.

(h) On 08/03/2019, the Government introduced a Notification for publishing the Maharashtra Land Revenue (Conversion of Occupancy Class-II and Leasehold Land into Occupancy Class-I Lands) Rules, 2019 (hereinafter referred to as 'Rules of 2019').

(i) By the applications dated 23/04/2019 and 31/05/2019, the petitioner prayed for conversion. All objections raised by the Circle Officer as well as the Collector, were answered in between 31/10/2019 till 09/12/2021.

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(j) By an order dated 25/04/2022, the Collector, Dhule, refused to convert the land of the petitioner from Occupancy Class-II to Occupancy Class-I, on the ground that earlier, the petitioner had not approached the Sub Divisional Officer, Dhule, after the Tahsildar, Dhule (Rural) rejected the application on 26/04/2013 for regularizing the encroachment. Instead, he approached the Additional Divisional Commissioner and hence, that was inappropriate.

3. The learned A.G.P. representing the respondents has vehemently opposed this petition. He submits that, the petitioner can approach the Divisional Commissioner instead of approaching this Court. He, therefore, prays that this Court should not entertain this petition.

4. Normally, we would not have entertained this petition, but for the fact that instead of deciding, whether the petitioner can be granted the conversion on the merits of his claim, the District Collector has travelled beyond the file, to conclude that the appeal preferred by the petitioner before the Additional Divisional Commissioner, which was decided on 13/05/2013, was without jurisdiction and the Additional Divisional Commissioner should

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not have considered the appeal. We find such conclusion to be far-fetched and beyond the jurisdiction of the District Collector, particularly when the Additional District Collector, Dhule had allowed R.T.S. Appeal No.21/2016, filed by the petitioner as a legal heir of Jijabai, by an order dated 01/07/2016.

5. In view of the above, this petition is partly allowed.

6. The communication dated 25/04/2022, addressed by the Additional District Collector, Dhule to the petitioner, does not deserve to be entertained and stands ignored. The proceedings initiated by the petitioner for seeking transfer from Occupancy Class-II to Occupancy Class-I, stands restored to the file of the District Collector, Dhule.

7. The petitioner shall appear before the said authority on 01/07/2022 at 2.00 p.m. The said authority would, thereafter, consider the application of the petitioner for seeking conversion, on it's merits and in the light of the Rules of 2019. We expect the District Collector to deliver a reasoned order, as expeditiously as possible and in any case, on or before 30/08/2022.

(ANIL L. PANSARE, J.)

(RAVINDRA V. GHUGE, J.)

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