

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 343 OF 2021

Ashok s/o Vithalrao Naik

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. Yogesh B. Bolkar, advocate for the Petitioner.
Mrs. V. N. Patil Jadhav, AGP for the Respondents.

CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.

DATE : 14 June, 2022.

PC :

1 By this petition, under Article 226 of the Constitution of India, the petitioner is seeking a direction to Respondent Nos. 3 to 6 to provide the copy of the proceedings bearing Case No.76/ROR/82, dated 12.10.1982 and for certain consequential reliefs to take action against the concerned in the event the record of the said case is found to be misplaced.

2 We have heard learned Counsel for the petitioner and

the learned A. G. P. for the Respondents.

3 According to the petitioner, his father had applied to the competent authority for restoration of the land under the provisions of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 and Section 36 of the Maharashtra Land Revenue Code. The petitioner claims that the said application was registered as Case No.76/ROR/82 and an order was passed in the year 1982 in favour of his father for restoration of the land on the ground that the transfer of land to a non tribal from the tribal was illegal. However, the father of the petitioner could not obtain possession of the land and the father expired subsequently. The petitioner thereafter applied to the Deputy Collector in the year 2011 for restoration of the land placing reliance on the order passed in the year 1982 in favour of his father. The petitioner, however, did not produce any such order, by which the subject land was directed to be restored in favour of the father of the petitioner. Thus, except the copy of the notice dated 12.10.1982 in the said proceedings, no other order was produced. The Deputy Collector, by the order dated 03.03.2012, has rejected the application. Incidentally, the said order is not subject matter of challenge in this petition. The only contention raised on behalf of the petitioner is that the Respondents should trace the said order passed in the said proceedings and thereafter proceed with the

application for restoration.

4 The learned A. G. P. has pointed out that except making a bald statement that some order in favour of the father of the petitioner was passed in the year 1982, the petitioner has not produced any document to show that any such order was passed. The learned A. G. P. has also pointed out that the petition suffers from gross delay and laches and the order rejecting his application is also not challenged in this petition.

5 We have considered the circumstances and submissions made by the parties and we do not find that the petition, as framed and filed, can be entertained. As noticed earlier, except producing the copy of the notice dated 12.10.1982 in proceedings bearing Case No.76/ROR/82, the petitioner has not produced any order showing that there was an order of restoration of possession passed in favour of his late father. The order dated 03.03.2012 is not challenged in this petition. The petitioner has also not acted diligently, as even going by the case of the petitioner, the order was passed in favour of his late father in the year 1982, however, he has approached the concerned authority in the year 2011 and even after the order rejecting his application was passed in the year 2012, present petition is filed in the year 2021.

6 For the aforesaid reasons, we decline to entertain the petition. It is accordingly dismissed. This, however, will not come in the way of the petitioner, availing other remedy, if any, available in law, and if so advised.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.

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