

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9943 OF 2022

Devichand S/o Waman Dongare ...Petitioner

Versus

The State of Maharashtra & Others ...Respondents

AND

WRIT PETITION NO. 9944 OF 2022

Sanjay s/o Navnath Dongare ...Petitioner

Versus

The State of Maharashtra & Others ...Respondents

AND

WRIT PETITION NO. 9945 OF 2022

Shivaji s/o Trimbak Dongare ...Petitioner

Versus

The State of Maharashtra & Others ...Respondents

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Mr. S.S. Thombre, Advocate for the petitioner

Mr. S.B. Pulkundwar, AGP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 26th SEPTEMBER, 2022

ORDER :

1. In the peculiar facts present petitions are entertained. The auction of attached properties of the petitioners is kept tomorrow.

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2. For violation of provisions of 48(7) of Maharashtra Land Revenue Code, 1966, Tahsildar directed recovery of 5 times penalty amount from the petitioners. The petitioners challenged these orders before the Sub Divisional Officer by filing appeals along with delay condonation applications. During the pendency of appeals and delay condonation applications before Sub Divisional Officer, Tahsildar proceeded to auction the properties of the petitioners.

3. The petitioners therefore filed Writ Petitions No. 4583/2022, 4582/2022 and 4590/2022. The Division Bench of this Court by recording undertaking of the petitioners not to sell properties in question which are subject matter of auction or encumber or part with possession or create third party rights during the pendency of appeal before Sub Divisional Officer, for a period of four weeks, disposed of the writ petitions by order dated 25.04.2022, directing the Sub Divisional Officer to decide the delay condonation applications.

4. It appears that the Sub Divisional Officer thereafter by order passed in the month of June 2022, condoned the delay, however, dismissed the appeals filed by the petitioners on

merits. The petitioners challenged the order passed by the Sub Divisional Officer by filing second appeal before the Additional Collector on 30.06.2022 along stay application.

5. It appears that pursuant to the orders passed by the Sub Divisional Officer, Tahsildar has issued public auction notice of the properties of the petitioners on 31.08.2022 thereby scheduling the auction on 27.09.2022. The Collector dismissed the appeals filed by the petitioners on 23.09.2022.

6. The petitioners have remedy to approach Additional Commissioner by filing revision against the impugned orders. The learned advocate for the petitioners states that office of the Additional Commissioner is closed today on account of public holiday.

7. In view of the fact that auction is scheduled tomorrow, impugned auction is stayed for a period of one week from today, on the same undertaking of the petitioners that they shall not sell the properties in question which are subject matter of the auction or encumber or part with possession or create third party rights during the pendency of revision to be filed

before Additional Commissioner.

8. With these directions, writ petitions are disposed of.

9. The learned Assistant Government Pleader to communicate this order.

[NITIN B. SURYAWANSHI, J.]