

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1970 OF 2022

Prakash @ Krishnat Namdeorao

Patil and Anr.

...Petitioners

V/s.

The State of Maharashtra and Ors.

...Respondents

Mr. Manoj Patil i/b. Mr. Gaurav Nankar, for the Petitioners.

Mr. S. L. Babar, A.G.P. for the Respondent Nos.1 to 7 / State.

Mr. Abhishek Khare a/w. Mr. R. P. Shirole i/b. Khare Legal Chambers, for the Respondent No.9.

**CORAM : PRASANNA B. VARALE AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 09 JUNE 2022

P.C.

. The Petitioners before this Court are submitting that under an oral direction of the Collector, certain steps are taken by the Revenue Authorities causing serious prejudice to the Petitioners.

2. Our attention is invited to the documents placed on record in support of the following contentions.

The Authority of the State Government by exercising its powers granted a piece of land to one Vasant Tukaram Zirange, a

retired army personnel. This land of 1 Hectar 86 R + 16 R Potkharab i.e. total 2 Hectar 02 R of Gat No.630/1/B is situated in Mouje Kasarwadi, Taluka Hatkanangale, District Kolhapur. Initially allottee of the land was classified as class II occupier of the land as the initial allottee Mr. Vasant Zirange was unable to cultivate the land for some difficulties and on expressing his inability, the Petitioners approached the Authority making an offer to purchase the land for agricultural purposes.

3. The Petitioners have also paid an amount to the tune of Rs.1,21,000/- as an amount to the extent of 50% of an unearned income. Vide order dated 7 August 2008, the sale of land in favour of the Petitioners was permitted subject to certain conditions for agricultural purposes. A copy of the said order is placed on record at Exh.A page 37.

4. In the course of events and due passage of time, as the Petitioners were unable to cultivate the land for agricultural purposes, the very Authority has granted permission particularly for carrying out mining activities. The District Collector / Additional Collector, Kolhapur by exercising his power under the provisions of Maharashtra Land Revenue Code, 1966 and the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013, issued permission, in view of order passed by the Divisional Commissioner, Pune Division,

Pune dated 7 August 2008 which is at page 37. Ultimately, the order was passed permitting the Petitioners to utilise the land for mining purposes subject to certain conditions.

5. The order passed under signature of Tahsildar Hatkanangale is placed on record at Exh.H page 54. The permission to utilize the land for mining purposes was on lease base. The lease period is specified in the document placed on record at page 65 and it is for a period of five years of lease from 27th day of 10th month of year 2015.

6. It is the grievance of the Petitioners that the Petitioners were apprised to submit necessary application for continuation of mining lease permission with extension of lease period for approaching the Authority and for revenue entry effected in the register. The Petitioners were neither in a position of seeking extension of lease nor were in a position to cultivate the land. The learned counsel submitted that the Government Resolution was issued on 2 December 2016 for streamline allocation of the lands to the respective departments namely Forest Department and the Revenue Department. A copy of the said Resolution is placed on record at Exh.K page 79. It is submission of the learned counsel that the Government Resolutions specifically taken care of the lands which were allotted by following due procedure and the object of the Government Resolution is to reallocate the lands which were free from any earlier occupation or possession. The

learned counsel for the Petitioners then submits that by giving total gobye to the object of the Government Resolution, the Authorities without giving any opportunity of hearing to the Petitioners, recorded the entry in revenue record and thereby the land which were allotted to the Petitioners in the order of the competent Authorities, which is shown as Government lands and the protected lands. The copy of the register entry is placed on record at Exh.L page 81.

7. On the basis of the revenue entries recorded in register, the electric supply of the Petitioners were discontinued. The Petitioners then were obstructed by the Forests Department to utilise his land. The learned counsel submitted that in view of discontinuation of electric supply, the grievance was raised before this Court. Vide order dated 12 April 2022, subject to payment of necessary charges, the Respondent No.9 Maharashtra State Electricity Distribution Company Ltd. (MSEDCL), Hankanangale, Kolhapur was directed to reconnect the electricity given to the Petitioners subject to further orders in the petition. Accordingly, by following the order dated 12 April 2022, the Petitioners deposited the necessary charges and electric supply is restored to the Petitioners.

8. Now, considering all the above referred documents placed on record as well as the submission of the learned counsel, the learned counsel for the Petitioners invited our attention to the

communication forwarded from the office of the District Collector Kolhapur and the copy of the same is placed on record at Exh.O at page 86. It is submitted by the learned counsel that the said communication reiterates the object of reallocation of the lands which were subjected to encroachment. But the lands which are either allotted or sold under the orders of the Competent Authority could not have been termed as the encroached land and there could not have been a change in the entry without following the principle of natural justice.

9. This being the core issue in the matter and considering the very material aspect namely the Petitioners having an efficacious remedy available to him in the form of statutory appeal before the competent Authority under the provisions of Maharashtra Land Revenue Code, 1966, we are not inclined to entertain the petition.

10. The learned counsel, at this stage submits that the Petitioners would approach the Competent Authority raising the grievance against the entry effected in the revenue record and the Petitioners be protected by continuation of the interim order otherwise the Authorities may take coercive action in the nature of discontinuation of the electricity supply.

11. There is some merit in the submission of the learned

counsel for the prayer of continuation of interim relief till the Petitioners file appropriate statutory remedy. Accordingly, we dispose of the petition, with liberty to the Petitioners to challenge the order of effecting the entry in the revenue record before the competent authority prescribed under the provisions of the Maharashtra Land Revenue Code, 1966. The Petitioners are permitted to avail remedy in the form of appropriate proceedings namely an appeal before the Competent Authority within three weeks from today.

12. The interim order passed by this Court for restoration of electric supply to the Petitioners shall continue in operation till filing an appeal alongwith application for interim orders and decision thereon. If such proceedings is submitted to the Competent Authority under Maharashtra Land Revenue Code, 1966, the same be decided by the Competent Authority as per the time frame and as per the provisions of law.

13. Authenticated copy be supplied to the learned counsel appearing for the respective Respondents. Parties to act on the authenticated copy.

(SHRIKANT D. KULKARNI, J.) (PRASANNA B. VARALE, J.)