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

45 WRIT PETITION NO.1541 OF 2022

Sukhdev S/o. Chintaman Samdir,

...PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Revenue Department,
Madam Kama Road,
Mantralaya, Mumbai-32

...RESPONDENTS

2. The Divisional Commissioner,
Nashik Division, Nashik

3. The District Collector,
Dhule District, Dhule

4. The Additional Collector,
Dhule District, Dhule

5. The Tahasildar,
Rural Dhule, Tq. & Dist. Dhule

Mrs. S. M. Zaware, Advocate for the petitioner
Mr. K. B. Jadhavar, AGP for the respondents/State
Mr. Mohit Shah, Advocate for the applicant

CORAM : KISHORE C. SANT, J.

DATE : 30th JUNE, 2023

P. C.

1. Heard the parties. The matter is taken up with the consent of the parties for final disposal.

2. A challenge in this petition is to an order dated 22-12-2021 passed by the learned Additional Collector, Dhule thereby staying operation of his own order dated 31-03-2021 converting the land of the petitioner i.e. Gut No. 2/1, adm. 5-H 13-R and 50-R Potkharab. The land was converted from class-II to class-I on application of the petitioner. Before converting the land report dated 08-09-2020 was submitted. In the report one column No. 3 wherein it is reported that land is being cultivated for more than 10 years. Conversion is thus made after compliance.

3. Thereafter, the intervenor-respondent No.6, General Power of Attorney for his mother Hemlata Sanghvi who has entered into an agreement of sale with the petitioner made a complaint to the learned Additional Commissioner, Nashik

against conversion of type of holding of the land. The learned Additional Commissioner wrote a communication to the learned Additional Collector directing to take proper action. The learned Additional Collector also received a complaint by respondent No.6 based on information solicited under Right to Information Act. The learned Additional Collector while passing the order has referred to Section 256(1) of the MLR Code and has stayed the action suo-moto.

4. Learned advocate for the petitioner submits that objection is raised that this order is appealable and the respondent has thus alternative remedy. The petitioner submits that by reading section 252 of the MLR Code there is a specific bar for filing the appeal by way of clause-2 and thus there is no remedy to challenge the said order. She further argued that this order of the learned Collector is not sustainable even on the ground that in view of Section 256 the learned Collector can stay the order only within the period provided for appeal and when no appeal is preferred, it is clear that the order is passed

after more than 9 months i.e. beyond the period provided for filing an appeal. She further submits that when the order dated 31-03-2021 was passed by taking into consideration of compliance. There was no reason to review the said order and to grant stay.

5. Though in the order it is stated that stay is granted till the review under Section 258 is pending. There is nothing on record as to on what ground review is sought by the learned Collector. It is admitted position that none of the parties have filed any application for review of the order.

6. Learned AGP submits that the learned Additional Collector was within his power to grant stay since the review is pending.

7. Learned advocate for respondent No.6 vehemently argued that the order dated 31-03-2021 is obtained by misleading the authorities and therefore, review was necessary

by the learned Collector. Stay is granted and there is no illegalities committed by the authorities.

8. On asking as to what is his interest, he submits that his mother has entered into an agreement with the petitioner for purchasing of the land and she has also filed suit for specific performance against the present petitioner. He is power of attorney holder of his mother, however, the intervenor has filed application for intervention in the petition in his individual capacity and not as power of attorney holder.

9. Thus, looking to the locus of the intervenor this court finds that he has no locus to challenge this order as challenge is only that while converting the land valuation of the land is shown to be lesser than the actual market price. Further he could not satisfy even as to how that causes prejudice to his mother.

10. Considering all this facts, this court finds that

learned Additional Collector could not have passed this order contrary to section 256 i.e. beyond period provided for appeal against the said order. In view of above, this court finds that no case is made out to quash and set side the order passed by the learned Additional Collector dated 31-03-2021.

11. The petitioner stands allowed in terms of prayer clause-C.

12. In view of disposal of the petition, pending civil applications, if any stand disposed off.

[KISHORE C. SANT, J.]

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