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

## 916 WRIT PETITION NO.2446 OF 2023

BAPURAO @ BABURAO SOPAN GAIKWAD
VERSUS
SAYYED ABDUL RAHIM ISMAIL AND ANOTHER
...
Advocate for Petitioner: Mr. Patil Nileshsingh J
Advocate for Respondent No.1: Mr. D. V. Tele
AGP for Respondent/State: Mr. K. B. Jadhavar
...

**CORAM: ARUN R. PEDNEKER, J.**
**DATE: 28th FEBRUARY, 2023**

**PER COURT:**

1. Heard.

2. The petitioner has sold 3 Hector 5 Are land situated at Naldurg by a registered sale deed on 28.05.2002. The petitioner, thereafter, applied to the Additional Collector, Osmanabad under Section 29 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 *(for short "1961 Act")* for cancellation of the sale deed. The contention of the petitioner therein was that the land has been actually given for cultivation, however, there was a fraudulent transcription of the word sale deed in the document for cultivation

and it was mentioned in the alleged sale deed that since the petitioner was facing financial difficulty, the transaction was recorded. However, it is submitted that the respondent has misused his position, instead of *Bataipatra* it is mentioned as sale deed and, therefore, the petitioner prayed that the sale deed be set aside and possession of the land be given to the petitioner. The Additional Collector conducted the inquiry and has held that the sale transaction was without permission of the Additional Collector under the provisions of Section 29(3) of the 1961 Act and, in view of the same, set aside the sale deed and directed that the land be vested in the State Government. The order passed by the Additional Collector was challenged by the Respondent No.1 before the Maharashtra Revenue Tribunal, Aurangabad under Section 33 of the 1961 Act. Interestingly, the petitioner had not challenged the said order dated 10.11.2014 passed by the Additional Collector. In appeal filed by respondent no.1, the Maharashtra Revenue Tribunal, Aurangabad partly allowed the appeal and directed the State to regularize the sale transaction by payment of 50% of the market value, in view of the Government Resolution dated 15.12.2018 and 27.05.2019.

3. The original vendor has challenged the order passed by the Maharashtra Revenue Tribunal, Aurangabad. It is to be noted that the original order passed by the Additional Collector directing vesting of the land in the State was not challenged by the vendor / petitioner, however, he has chosen to challenge the order passed by the Maharashtra Revenue Tribunal, Aurangabad. The petitioner has challenged the sale beyond the period of 10 years before the Additional Collector. It was his contention that he is an illiterate person and that in view of the fact he has no knowledge of the mention that the word sale deed in the document and was under the impression that the document executed is an cultivation agreement. However, the document is a registered one and that there was no challenge by the

petitioner to the order passed by the Additional Collector, as such, there can be no revision of the land to the petitioner.

4. The learned counsel appearing for respondent no.1 also submits that the petitioner was working in the police department and is not an illiterate person as is contended by the petitioner.

5. In view of the same, no meaningful purpose would be served in entertaining the present writ petition, as even if the petitioner succeeds, the land cannot be reverted back to the petitioner as he had not challenged the order passed by the Additional Collector.

6. In view of the same, the Writ Petition is dismissed summarily.

**[ARUN R. PEDNEKER, J.]**

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