

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

WRIT PETITION NO. 8921 OF 2021

1. Dattatraya Madhavrao Mali
2. Pramod Popatrao Mali
3. Hemant Popatrao Mali
4. Gopal Ramesh Mali
5. Dnyaneshwar Shamrao Mali
6. Murlidhar Gorakh Mahajan
7. Narayan Mitaram Mali
8. Vittal Kautik Mahajan .. Petitioners

Versus

1. The State of Maharashtra
Through Principal Secretary,
Revenue and Forest Dept.
Mantralaya, Mumbai-32.
2. The Collector, Jalgaon.
3. The Tahsildar, Chopda.
4. Sunil Raghunath Amrutkar
5. Chandrakant Totaram Patil .. Respondents

Mr. B. R. Waramma, Advocate for the Petitioners.

Mr. S. B. Pulkundwar, AGP for Respondent Nos. 1 to 3.

Mr. M. S. Shah, Advocate for Respondent Nos. 4 and 5.

CORAM : KISHORE C. SANT, J.

DATED : 07th AUGUST, 2023.

P.C. :-

. Heard the petition. Taken up for final disposal by consent of the parties.

2. A very short question that arises in this petition is that, the learned Collector has passed an order dated 16.02.2021 without following principles of natural justice. It is a matter of record that, the learned Collector has passed this order directing the petitioners to deposit nazrana amount by considering the market value of the land in question. It is the case of the petitioners that this order was passed without giving them notice when they are the owners and possessors of the land Gat Nos. 1078/1 and 1078/2. Learned advocate for the petitioners submitted that, the application was moved by the proposed purchasers of the land who have entered into agreement with petitioners for sale of land. The learned Collector on their application has passed an order without even issuing notice to these petitioners/owners.

3. Learned advocate for respondent Nos. 4 and 5 submits that, there is nothing to indicate that the learned Collector has, in fact, issued notice.

4. The petitioners even dispute by showing that the owners had no

objection to pay the nazrana amount. The same is also not signed by them. It is signed by one Amrutkar Sunil Raghunath. It is specific stand of the petitioners that the said person was not authorized to give any such in writing to the learned Collector.

5. Considering that, not even notice was issued by the learned Collector before passing such an order certainly amounts to violation of principles of natural justice.

6. Learned advocate for the petitioners relies upon the judgment in Civil Appeal No. 5121/2021 in the case of Assistant Commissioner of State Tax and others Vs. M/s. Commercial Steel Limited wherein, paragraph No. 11 reads as below :

“11. The respondent had a statutory remedy under section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is :

- (i) a breach of fundamental rights;
- (ii) a violation of the principles of natural justice;
- (iii) an excess of jurisdiction; or
- (iv) a challenge to the *vires* of the state or delegate legislation.”

7. This Court finds that, the present case is squarely covered by clause (ii) given in paragraph No. 11 of the said judgment.
8. In view of the same, this Court finds that, though there is alternative remedy, this petition can be entertained as there is total violation of principles of natural justice.
9. The impugned order is quashed and set aside. The writ petition is allowed in terms of prayer clause (B).
10. The parties to appear before the learned Collector on 11.08.2023.
11. The writ petition is disposed off.

(KISHORE C. SANT, J.)

P.S.B.