

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

WRIT PETITION NO.10286 OF 2023

**RAJENDRA NATHA MUGUTRAO AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS CHIEF
SECRETARY AND OTHERS**

....

Mr. B. A. Dhengle, Advocate for Petitioners
Mr. V. M. Kagne, AGP for Respondent - State

....

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 21.08.2023

PER COURT :-

1. The only grievance of the Petitioners is that the impugned notice dated 03.07.2023 treats them as encroachers and prohibits them from carrying out their agricultural activities. Both of them are the biological grand sons of Parwatibai Mahada Mugutrao, who has passed away. Prior to her demise, she has bequeathed the property under a Will-Deed dated 09.10.2009. That is how these two Petitioners claim who have inherited the property. The mutation entries indicate that they are cultivators.

2. We are of the view that a person cannot be removed from a particular premise or his possession over a particular land cannot be taken away, without following the due procedure laid down in law. The least that can be done is to issue a notice and grant time to the said person to present the title documents and establish his ownership.

3. In view of the above, the learned Advocate for the Petitioners submits that the impugned notice can be treated as a notice for hearing and within 15 days, they would tender their title documents along with an affidavit submission declaring their ownership over the concerned land.

4. Considering the above statement, this **petition is disposed off** with the following directions:-

[a] The impugned notice dated 03.07.2023 shall be treated as a show cause notice;

[b] The Petitioners shall tender their submissions on affidavit along with all such documents which indicate their title over the property at issue, admeasuring 0.60 R as is set out in the notice.

- [c] The above stated affidavit submissions and documents shall be tendered to Respondent No.2, on or before 08.09.2023.
- [d] Thereafter, Respondent No.2 shall follow the due procedure laid down in law and after due verification of the records, pass an appropriate order, on or before 10.10.2023.
- [e] If the authorities notice from the records that the compensation for the land at issue has already been paid to the predecessor in title, who is the father of the Petitioners, they would be at liberty to take steps for evicting the Petitioners for that portion of the land.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

SMS