

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.1562 OF 2023**

USHA BHAGWAN THORAT THROUGH HER G. P. A. BHAGWAN RAMDAS
THORAT
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

...
Advocate for Petitioner : Mr. Chandrakant K. Shinde
AGP for Respondents: Mr. A.S. Shinde.

**CORAM : MANGESH S. PATIL
& S.G. CHAPALGAONKAR, JJ.**

DATE : 9 FEBRUARY 2023

P.C.:-

Heard both sides.

2. Petitioner's application for regularization, preferred under Section 29(8) of the Maharashtra Agricultural Lands Ceiling on Holdings Act, 1961 has been turned down only on the ground of absence of her name in the revenue record and apparently ignoring the amended proviso inserted in the year 2018.

3. The proviso, which is added by way of amendment in the year 2018, reads as under :

"29(3) Any transfer or division of land, and any acquisition thereof, in contravention of sub-section (1) or sub-section (2) shall be invalid; and as a penalty therefore, any right, title and interest of the transferor and transferee in or in relation to such land shall, after giving him an opportunity to show cause, be forfeited by the Collector and shall without further assurance vest in the State Government

Provided that, after the commencement of the Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 2018 (Mah. LXXI of 2018) no such land shall be forfeited by the Collector for contravention of the provisions of sub-section (1) or sub-section (2), as the case may

be, if the transferor, transferee or any other person interested in such land makes the payment of such amount, as the State Government may, by order published in the Official Gazette, specify:

Provided further that, the amount specified by the State Government under the preceding proviso shall not exceed fifty per cent of the market value of such land ascertained as per the current Annual Statement of Rules published under the provisions of the Maharashtra Stamp (Determination of True Market Value of Property) Rules, 1995."

Ex-facie, the proviso expressly bars any forfeiture by the Collector for contravention of the provisions of sub-section (1) or Section (2) . The impugned order, except by saying that the petitioner's name does not appear in the revenue record or the land purchased by her, does not indicate about the Collector having applied his mind and taken some objective decision, particularly, bearing in mind the aforesaid proviso.

4. We quash and set aside the order and remit the matter to the Additional Collector, Ahmednagar to decide petitioner's application afresh, bearing in mind the aforementioned aspects on its own merits. The decision shall be taken as expeditiously as possible and in any case within six months.

5. Writ petition stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

grt/-