

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9349 OF 2023

- 1] Angad s/o Nagnath Katale,
Age : 59 years, Occu. Agriculture,
R/o. Near Balaji Temple,
Renapur, Tq. Renapur, Dist. Latur.
- 2] Balaji s/o Nagnath Katale,
Age : 55 years, Occu. Agriculture,
R/o. Near Balaji Temple,
Renapur, Tq. Renapur, Dist. Latur.

... Petitioners

Versus

- 1] The State of Maharashtra,
Through the Secretary,
Revenue Department,
Mantralaya, Mumbai.
- 2] The District Collector,
Latur, Dist. Latur.
- 3] The Tahsildar,
Tahsil Office, Renapur,
Tq. Renapur, Dist. Latur.
- 4] Gundu s/o Kashinath Ghadse,
Died : Through his LRs :
- 4-1] Suresh s/o Gundu Gahadse,
Age : Major, Occu. Agriculture,
R/o. Renapur, Tq. Renapur,
Dist. Latur.
- 4-2] Balaji s/o Gundu Gahadse,
Age : Major, Occu. Agriculture,
R/o. Renapur, Tq. Renapur, Dist. Latur.

4-3] Chaya Dilip Sonwane,
Age : Major, Occu. Household,
R/o. Shegud, Tq. Karjat, Dist. Ahmednagar.

4-4] Sow. Meena @ Minakshi Ganesh Shelar,
Age : Major, Occu. Household,
R/o. Pusad, Tq. Pusad, Dist. Yeotmal.

Resp. Nos. 4-1 to 4-4
Through their G.P.A. Holder :
Sandipan s/o Laxman Gahadse,
Age : 48 years, Occu. Agriculture,
R/o. Near Renuka Mata Temple,
Renapur, Tq. Renapur, Dist. Latur.

5] Pralhad s/o Nagnath Katale,
Age : 70 years, Occu. Agriculture,
R/o. Near Balaji Temple, Renapur,
Tq. Renapur, Dist. Latur.

6] Suresh s/o Nagnath Katale,
Age : 50 years, Occu. Agriculture,
R/o. Near Balaji Temple,
Renapur, Tq. Renapur, Dist. Latur.

... Respondents

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Mr. Kiran T. Jamdar – Advocate for petitioners
Mr. S. B. Pulkundwar – AGP for respondent/State

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CORAM : KISHORE C. SANT, J.

DATE : 31ST JULY, 2023

ORDER :

1. This matter is moved by tendering *praecipe* since the property of the petitioners is put to auction today by issuing proclamation on 11.07.2023.

2. During the course of argument, it is submitted that the auction of the land in question for giving it for cultivation on the basis of 'Ek Saal Lagan' for the year 2023-24, would be held today.

3. The matter is arising out of Sections 5 and 8 of the Hyderabad Tenancy and Agricultural Lands Act, 1950 [hereinafter referred to as 'HTAL Act' for the sake of brevity]. The petitioners had tendered an application before the Tahsildar for declaring them as occupants / tenants of the disputed land bearing Gut No. 333, *ad measuring* 4 hectares 77 *Are*, which was allowed by the Tahsildar vide its order dated 20.09.2021. The respondent no. 4 (deceased) now represented by heirs i.e. petitioners no. 4-1 to 4-4 challenged the said order of Tahsildar by filing an Appeal under Section 90 of the HTAL Act before the Collector at Latur. The learned Collector, by its judgment and order dated 30.06.2022, partly allowed the appeal and set aside order dated 20.09.2021 passed by the Tahsildar and directed him to make an inquiry in respect of virasat and if no virasat is there, take the land in possession of the Government and give the same on 'Ek Saal Lagan' basis. The petitioners already approached the Maharashtra Revenue Tribunal at Aurangabad (in short 'MRT') by

filing Appeal No. 20-A-2022-Latur challenging the order of the Collector, which is pending before the said Tribunal. The learned Member, MRT, Aurangabad, dismissed the said Appeal for want of prosecution. The application tendered by the petitioners for setting aside the dismissal order and restoration of the appeal with prayer for condonation of delay in filing the same is pending in the court of MRT, Aurangabad. In the meantime, the Stay Application is filed before the MRT, Aurangabad, however, same is not being considered and it is pending without any orders.

4. The learned advocate for the petitioners submits that since the learned MRT, Aurangabad, is not considering the application for stay, he has approached this Court by filing the present petition seeking stay to the auction to be taken place today i.e. 31.07.2023. He submits that though the auction notice is dated 11.07.2023, he could not get the knowledge immediately and soon after coming to know about the said notice, he has filed this petition on 30.07.2023 seeking quashing / stay of the same.

. When this Court repeatedly asked the learned counsel for the petitioners as to whether petitioners pursued the stay application before the MRT, Aurangabad, he could not point out anything.

6. The learned AGP, therefore, submits that when the petitioners have already approached the MRT, Aurangabad, they should seek relief of stay from the MRT, as the impugned order passed by the Collector is the subject matter of the proceeding before the MRT.

7. In view of above, this Court also finds in the fitness of things that it was necessary for the petitioners to pray for stay before the learned MRT. Instead of approaching the learned MRT, they have approached this Court challenging the auction notice. Under such circumstances, no case is made out warranting interference. **The petition is, therefore, dismissed.**

**[KISHORE C. SANT]
JUDGE**