

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

28 WRIT PETITION NO.12277 OF 2021

1. Tehseen Jilani Kokani, **...PETITIONERS**
2. Bazmeen Lini Kokani
3. Fatima Jilani Kokani

VERSUS

1. The State of Maharashtra **...RESPONDENTS**
2. The Hon'ble Revenue Minister
Revenue Department, 2nd Floor, Mantralaya
Mumbai
3. Additional Divisional Commissioner-1 NO.1
Aurangabad
4. Additional Collector, Jalna
5. Deputy Collector (General Administration)
Land Improvement, Jalna
6. Tahasildar, Jalna
7. Talathi, Indewadi, Tq. & Dist. Jalna
8. Circle Officer, Indewadi, Tq. & Dist. Jalna
9. Gopalsing Dhanusing Rajput

**AND
WRIT PETITION NO.12278 OF 2021 WITH
CA/12833/2022**

1. Takdis Salim Kokani, **...PETITIONERS**
2. Tanseem Inamali Patel
3. Tahira Jilani Kokani
4. Bilkis Mohammedsaheb Kokani

VERSUS

1. The State of Maharashtra **...RESPONDENTS**
2. The Hon'ble Revenue Minister
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9. Gopalsing Dhanusing Rajput

Mr. A. S. Khandeparkar, Senior Advocate a/w Prerak Sharma,
Advocate a/w Amit Savale, Advocate a/w Farhan Shaikh,
Advocate i/b Mr. Amit Savale, Advocate for the petitioners
Mr. A. B. Girase, Advocate for the respondent No.9
Mr. K. B. Jadhavar, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 18th JULY, 2023

P. C.

1. Heard the parties for sometime.
2. Main ground raised and is confined to the fact that the impugned order dated 23-09-2021 passed by the learned Minister is without giving an opportunity of hearing to the petitioners. It is specifically contended that no notices were served upon the petitioners. In view of this ground this court had passed an order directing the learned AGP to produce on record tangible proof of service of notice.
3. The learned senior counsel for the petitioners has specifically pointed out from clauses 2.13 and 2.14 of his petition that he has made specific averments about non giving of notices. It is specifically averred that the petitioners personally verified and inspected the record in the file of learned Minister so also Roznama of the proceeding. However, there is nothing

to indicate that notices were ever served on the petitioners. In spite of affidavit-in-reply filed by the State authorities this fact is not denied in the said affidavit.

4. Now record is made available before this court of the original file from Mantralaya. On going through the entire record it is seen that there is no endorsement of receipt of notice by the petitioners nor same appear to have been signed by any of the representative of the petitioners. In view of the same this court finds that impugned order deserves to be quashed and set aside for non-observing principles of natural justice.

5. Learned counsel Mr. Girase for the respondent No.9 submits that the petitioners were aware of the proceeding. They have chosen not to remain present. He further points out from the order of the learned Minister that to give opportunity to the petitioners matter was adjourned on 2-3 occasions. It is the petitioners who could not avail the opportunity and therefore, submits that the matter needs not be remanded. He strenuously

argued that the petitioners do not have any case on merits and it is for this reason that they are raising technical objection.

6. Mr. Natu, learned advocate has filed civil application No. 12833/2022. He submits that dispute is going on in respect of land Survey No. 40 which was long before declared as surplus land by the competent authority. Thereafter, father of the applicant was to be in possession to the extent of 6-Acres of land out of Survey No. 40. When he is in possession he is not heard in any of the proceedings and therefore, had filed an application for intervention.

7. This court finds that care can be taken of his concern by requesting the learned Minister to hear the the applicant also in the application. Hence, the following order:

ORDER

a] Both the petitions stand allowed in terms of prayer clause-B.

b] The proceeding Nos. 2021/P No.54/J-7 and 2021/P No.55/J-7 stand restored to its original

status.

c] Learned Minister is requested to dispose off the said proceedings within a period of two months from today.

d] The applicant in civil application No. 12833/2022 shall be heard by the learned Minister while passing order.

e] This court makes it clear that this court has not expressed any anything on merits of the matters and disposed off only on the count of not providing the opportunity of the hearing to the petitioners.

f] Till the proceedings is disposed off by the learned Minister interim order passed by this court to continue.

g] Needless to say that it shall be ensured that notices are served upon the petitioners.

h] The petitioners to give correct address of the parties. Parties to cooperate in disposal of the proceedings.

i] Notices be also served upon the respective advocates who have appeared for the parties at least 7 days in advance.

[KISHORE C. SANT, J.]