

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

WRIT PETITION NO. 1748 OF 2023

Arjun Yamaji Ujgare

.. Petitioner

Versus

The Deputy Collector
Land Reform (General) and others

.. Respondents

Mr. H. V. Tungar, Advocate for the Petitioner.

Mr. K. B. Jadhavar, AGP for Respondent No. 1.

Mr. Avinash A. Khande, Advocate h/f Mr. Ganesh V. Sukale, Advocate
for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 10th JULY, 2023.

P C. :-

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

2. The petitioner has assailed the order passed by the Maharashtra Revenue Tribunal (MRT) dated 09.11.2022 thereby rejecting the appeal of the petitioner under Section 33 of the Maharashtra Agricultural Lands (Ceiling and Holdings) Act, 1961 (for short “the said Act”). Learned Member, MRT by impugned order has dismissed the appeal and confirmed the judgment passed by the Deputy Collector (General), Beed dated 02.11.2018. The facts in short are that, respondent No. 2

was allotted land at village Wadvani under the said Act from Gat No. 417 admeasuring 1 Hectare 70 R as he was found to be landless person. The land was allotted on 09.05.1976.

3. The petitioner who claims to be social worker and agriculturist filed an application styled as "Correction Application" before the District Collector, Beed contending that when the land was allotted to respondent No. 2 he was already having land and by suppression of the said fact he got such allotment done in his favour. The Collector mainly on the ground of locus standi and on the ground of limitation rejected the said application. The petitioner therefore filed an appeal before the MRT. The learned Member, MRT also observed that there is no locus standi with the petitioner and also on the ground of limitation dismissed the appeal and confirmed the order passed by the Collector. The petitioner is therefore before this Court.

4. Learned advocate for the petitioner submits that, on the date of allotment the respondent No. 2 was not a landless person. He invited attention to mutation entry No. 208 to show that the respondent's father was having land and after his death there are legal heirs and all the parties are joint family. This entry is of the year 1965. He also invites attention to 7/12 extract of the land Gat No. 28 of village Wadvani showing the name of mother of respondent No. 2, two

brothers of the respondent No. 2 and five sons which includes the respondent No. 2. His name is shown in cultivation column. He submits that, it was necessary for the Collector first to see that there is fraud committed on the Government and ought to have taken action against the respondents. The question of locus standi and limitation would have been gone only thereafter. The Collector, however, has gone first to the question of locus standi and the delay and as committed false mistake.

5. Learned advocate for the petitioner relies upon the judgments in the cases of (i) Commissioner of Customs Vs. Candid Enterprises reported in LAWS (SC) 2001 363 and (ii) State of Orissa Vs. Brundaban Sharma reported in LAWS (SC) (1994) 142 to support his submissions on the point of limitation. He further relies upon the judgments in the cases of (i) Inox Air Products Ltd. Vs. Harshita Ltd. reported in LAWS (DLH) (2010) 7374 and (ii) A P Ismail Rowther Vs. Mynoon Bivi reported in LAWS (MAD) (1964) 102 to support his submissions on the point of locus standi.

6. Learned advocate for respondent No. 2 submits that, there is no material produced on record to show that respondent No. 2 at any point of time has made application to the Government by suppression. The Government on its own has allotted the land. He

submits that, as a matter of fact, he was landless person on that day. The authority had satisfied itself before giving allotment under the Act. He also submits that, the petitioner has filed the proceeding only due to vengeance. He is not resident of that village. He is resident of a distant place. Only because brother of the petitioner has filed a suit against respondent No. 2 and thereby trying to bring pressure upon him he has filed this proceeding. He further submits that, in view of Section 35 of the Act there is specifically a limitation prescribed for filing appeal. The authorities have rightly not entertained the application of the petitioner. He submits that, it is the proceeding under Section 45-A of the Act and there is limitation of one year. There is no limitation under Sections 4, 5, 12 and 14 of the Indian Limitation Act. In any case, the proceeding before the Collector is not maintainable at all. Learned advocate prays for dismissal of the petition with costs.

7. Learned A.G.P. submits that both the authorities have rightly decided the matter and no interference is called for. He supports the contention of respondent No. 2 that there is no locus standi to the petitioner.

8. Considering the submissions this Court finds that, the petitioner could not show any locus standi. Coming to the point of limitation this

Court finds that, though the petitioner has relied upon the judgments in the cases of Commissioner of Customs Vs. Candid Enterprises and State of Orissa Vs. Brundaban Sharma (supra) it is not the case that under those acts limitations were provided whereas, in the case of State of Orissa (supra) prescribed limitation for appeal though it provided that Sections 4, 5, 12 and 14 of the Limitation Act are applicable still in this case even no such application was made by the petitioner. Looking to Section 45-A also it is seen from the proviso that the limitation is of one year only. Thus, this Court finds that both the judgments are not applicable to the facts of the case.

9. So far as locus standi is concerned this Court finds that, the judgments in the cases of Inox Air Products Ltd. and A P. Ismail Rowther (supra) are of no help to the petitioner as the facts are different.

10. Looking from any angle this Court finds that, when the petitioner has not made out case showing any locus standi and when the petitioner has not approached limitation this Court does not find any merit in the petition. So far as allegation of fraud is concerned, there is nothing on record to show that there is, in fact, any material to show that respondent No. 2 has deliberately mislead the authorities or has supplied any material by misrepresentation or by suppressing any

material fact. The position after 45 years without any overwhelming and sufficient reason is not accepted. This Court, therefore, finds that the petition deserves to be dismissed and the same is thereby dismissed.

(KISHORE C. SANT, J.)

PS.B.