

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

WRIT PETITION NO. 79 OF 2023

Vimal Laxman Khandagale	.. Petitioner
Versus	
The Tahsildar and others	.. Respondents

Shri B. A. Darak, Advocate for the Petitioner.

Shri R. B. Bagul, A.G.P. for the Respondent Nos. 1 and 2.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 10TH JANUARY, 2023.

FINAL ORDER :

. Heard learned counsel appearing for the petitioner. The petitioner is aggrieved by the order of the Trial Court dated 06th September 2022, whereby the compromise terms between the petitioner and the respondent Nos. 4 to 7 and 09 to 23 came to be rejected. The petitioner is original plaintiff, who had filed a suit for partition and separate possession bearing R.C.S. No. 326 of 2020 against the present respondents. The respondent No. 24 has filed a counter claim claiming ownership of said property under a sale deed executed by the respondent No. 3 i. e. father of the petitioner in respect of entire suit land. During the pendency of R.C.S. No. 326 of 2020, the petitioner and respondent Nos. 4 to 7 and 09 to 23 sought to compromise the suit and filed an application for the purpose of filing compromise before the Trial Court, which was objected by the respondent No. 24. It was alleged by the respondent No. 24 that the suit property which was originally owned by the State Government was allotted to the grandfather of the petitioner under the scheme of the Maharashtra Agricultural Lands Ceiling on Holding Act and as

such said holding is restricted holding and the permission of the learned Collector is required, which has not been obtained. The objection of the respondent No. 24 was accepted by the Trial Court and consequent thereto rejected the application of the petitioner.

2. Learned counsel for the petitioner submits that by the compromise all that was given to the petitioner was 01 Acre of land for her survival and said position ought to have been considered by the Trial Court. He further urged that the suit R.C.S. No. 326 of 2020 has not been compromised and it is only a compromise in respect of part of the property.

3. I have considered submissions raised by the learned counsel for the petitioner.

4. In an application filed under Order XXIII Rule 3 of the Code of Civil Procedure, the Trial Court is bound to consider as to whether compromise is lawful and thereafter accept the same. It is necessary for the Trial Court to consider whether compromise is lawful based on the documents placed before it. Considering the provisions of law, the Trial Court has rightly held that the compromise is not lawful as the holding was restricted holding and without permission of the Collector, same could not have been possible.

5. For the reasons stated above, the writ petition is devoid of merits. Same is accordingly dismissed. No costs.

[SHARMILA U. DESHMUKH, J.]