



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.128 OF 2023

Pandurang Ganpati Shewale & Ors. ...Petitioners

Versus

Ashwini Jirange,

The Deputy Collector (Rehabilitation)& Ors. ...Respondents

Mr. Nitin P. Deshpande a/w. Ms. Kanchan Phatak for the
Petitioners.

Ms. P. N. Diwan, AGP for the Respondent (State).

CORAM : G. S. KULKARNI,
JITENDRA JAIN, J.J.

DATE : 23rd AUGUST, 2023.

P.C.

. We have heard Mr. Deshpande, learned counsel for the
Petitioners and Ms. Diwan, learned AGP for the Respondent
(State).

2. This contempt petition is filed alleging that the
Respondents have not complied with the order dated 8th
September 2022 passed by this Court in Writ Petition No.6169 of
2022. By such order, the Division Bench of this Court had infact
categorically observed that a copy of the application of the
Petitioner itself was not placed on record. It was also observed

that it was not discernible as to when the application was made and whether it is still available with the Respondents. It was therefore, observed that it would be appropriate that the Petitioners make a fresh application.

3. The learned AGP for the State states that if the application for allotment of an alternate land is received by the Respondent-authorities, the same will be considered as per the law.

4. Reply affidavit to the contempt petition of Ashwini Harishchandra Sonawane is placed on record in which the very entitlement of the Petitioners to make a representation has also been questioned on the basis of the decision taken by the Respondents. The said affidavit states that the Petitioners' representation made in pursuance of the said order has been already decided on 30th December 2022. A copy of the said decision is annexed as Exhibit-2 to the said reply. The relevant contents of the said reply is required to be noted, which reads as Paragraph Nos.3, 4, 5 and 6:-

“3. I say and submit that, as per the Hon’ble Courts order dated 08.09.2022 the Respondent is directed to decide the Application within 8 weeks from receipt of the Application. I say and submit that as per the Application dated 11.10.2022

to the Respondent office. I say that our office verified all the relevant documents and facts regarding the Applicants demand and decided the Application on merit by order dated 30.12.2022 within the stipulated period as per the direction of this Hon'ble Court. I say and submit that the decision of the Respondent is communicated to the present Petitioners on 30.12.2022. Hereto annexed and marked as Exhibit-2 is the copy of Decision of Respondent No.1 dated 30.12.2022.

4. I say and submit that, Petitioners father Ganpati Hanma Shewale had filed Writ Petition No.2145 of 1999 before this Hon'ble Court, regarding the ownership of the said gat number and after hearing all the parties this Hon'ble Court rejected the said Writ Petition. Hereto annexed and marked as Exhibit-3 is the copy of order dated 10.04.2001 in Writ Petition No.2145 of 1999 passed by this Hon'ble Court.

5. I say that, as per report of the Tahsildar Bhudargad dated 29.06.2019, Petitioner's grandfather Hanma Narsu Shewale and others submitted letter dated 10.03.1998 for removing their names from other rights column from gat no.355/2 as they were never in possession nor cultivated the said land. I say and submit that from their own application it is clear that they were cultivated the said land not they were in possession of the Gat No.355/2 from the village Begavade. Hereto annexed and marked as Exhibit-4 is the copy of Application filed by the present Petitioners and others dated 10.03.1998.

6. I say and submit that the original owner Smt. Rukminibai Narayan Deshpande had sold the Gat No.355/2 to the Krushna Laxman Matle, Santu Nana Nilkhant and Shankar Dattu Chougale vide Registered Sale Deed and

Petitioners name is not present in record rights of the said Gat No.355/2.”

5. Also it appears that there was no disclosure by the Petitioners in the writ petition of disposal of an earlier writ petition filed by the Petitioners' father which came to be rejected by the Division Bench of this Court.

6. Even otherwise what we observe from the documents as placed on record of this contempt petition that the name of the Petitioners or for that matter their father was never part of the Sankalan Register. It also appears that the Petitioners never cultivated the said land and they were not in possession of Gat No.355 of 2022 from village Begavade, Taluka Bhudargadh, District Kolhapur. In the light of the above discussion, there is no merit in this contempt petition. It is accordingly rejected. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]