IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13284 OF 2016

Krishna Vishnu Deshmukh (Since Decd.)
Thru Lrs. And Ors. … Petitioners
Versus
State of Maharashtra
(The Revenue Minister) And Ors. … Respondents

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Mr. Chetan G. Patil, for Petitioner.
Mr. C. D. Mali, AGP for Respondent Nos.1 to 3.
Mr. Mahesh Rawool for Respondent Nos.4 to 10

…

CORAM : SANDEEP V. MARNE, J.
DATE : 04 DECEMBER 2023.

P. C.:

. By the present petition, Petitioners challenge Orders dated 10 June 2013 passed by the Additional Collector by which the request of the petitioners for re-grant of the lands in question is rejected. Petitioners also challenge Order dated 18 May 2015 passed by the Additional Commissioner and the Order dated 13 October 2016 passed by the Minister (Revenue). When the present petition came up for hearing before this Court on 26 April 2022, following Order was passed :-

> 1. Heard.
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> 2. Perused the orders dated 10.11.1998, 17.07.2000 and 21.08.2006 passed by this Court in three earlier writ petitions. The order impugned in the present writ petition is the order

dated 13.10.2016 by which the State has decided the Revision application of the Petitioners for re-grant of the subject lands to the Petitioners which is according to the State in accordance with the provisions of Section 20(2) of the Maharashtra Land Revenue Code, 1966 read with the Bombay Merged Territories Miscellaneous Alienation Abolition Act, 1955.

3. Mr. Dani, learned Senior Advocate appearing for the Petitioners has urged that in the present case, there is a report prepared by the Collector, Pune which finds mention in the letter dated 25.07.1996 at page 78 of the writ petition which is favourable to the Petitioners' case. However, subsequently after the Petitioners' applied for seeking compliance and several orders passed by this Court, the present impugned order has been passed based upon several documents which are considered by the State. Mr. Dani submitted that the impugned order is specifically challenged on the ground of violation of the principles of natural justice to the extent that the Petitioners have been denied an opportunity of being heard on the various documents referred to and relied upon by the State which are germane to the Petitioners' application for seeking re-grant of the subject lands under the statutory provisions. He submitted that the roznama of the proceedings itself shows that no documents were produced before the Court on or before the last date of the proceedings in which the Petitioners' original application was heard and as such the Petitioners had no notice of the said documents and contentions relied upon by the learned Court which find mention in the impugned order. He submitted that the basic enquiry which has taken place at the Collector's level is flawed as it ought to have been in consonance with the provisions of Section 20(2) of the Maharashtra Lane Revenue Code 1966, the Watan Abolition Act, 1955 and the Bombay Merged Territories Miscellaneous Alienation Abolition Act, 1955. The order dated 10.06.2013 passed by the Collector is also therefore impugned in the present petition. Ms. Bane, the learned AGP has submitted that in the present case, the subject lands stand vested in the State Government in view of the provisions of Section 11 of the Bombay Merged Territories Miscellaneous Alienation Abolition Act, 1955 and as such, the order dated 10.06.2013 has been correctly passed by the Collector in the present proceedings.

> 4. Be that as it may, admittedly in the present case, a substantive right of the Petitioners in the subject property is affected and every opportunity should be given to the Petitioners to agitate their right in accordance with law. The Petitioners are directed to place on record the list of documents which according to them have been considered by the Competent Authority i.e. Collector while passing the impugned orders dated 13.10.2016 and 10.06.2013, but copies of which have not been given to the Petitioners before passing the said orders. In the event if the Petitioners file such a list of documents on affidavit, the same shall be put to the Respondent State for consideration and appropriate order shall be passed accordingly on the next date. Petitioners are also at liberty to place on record the documents referred to and relied upon by the Respondent State of which no notice and copies have been given to the Petitioners.
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> 5. Stand over to 14th June, 2022 before the regular Court.

2. In compliance with the directions given by this Court in Order dated 26 April 2022, Petitioners have filed affidavit on 21 April 2022 and in paragraph No.6 of the affidavit, Petitioners have stated as under :-

> I say that he has referred to several documents such as the original 'Akarband', the Revenue Records of Survey No. 138 and Survey No. 154, the Mutation Entries, Adjustment Sheet (Kami-Jast Patra), the proceedings of the concerned Revenue Authority for effecting change of the names in the Revenue Records. I say that none of the aforesaid documents were ever furnished to the Petitioners and no opportunity was given to the Petitioner to deal with those documents.

3. It appears that till date, State Government has not responded to the affidavit filed by Petitioners on 21 April 2022. It also appears that

Petitioners have filed application under the Right to Information Act 2005 for supply of documents relied upon by the Additional Collector while passing the impugned Order. Even under the Right to Information Act 2005 the concerned documents are apparently not supplied to the Petitioners.

4. This Court has already held in Order dated 26 April 2022 that since the substantial rights of the Petitioners in the property are affected, every opportunity must be given to the Petitioners to agitate their rights in accordance with law. In that view of the matter, it would be appropriate to remand the proceedings to the Additional Collector for being decided afresh by giving copies of all the documents relied upon by the Additional Collector, especially the documents stated in paragraph No.6 of the affidavit dated 21 April 2022. For that purpose the Order passed by the Divisional Commissioner and the Minister (Revenue) will have to be set aside.

5. Accordingly present petition is disposed of by setting aside Orders dated 10 June 2013 of the Additional Collector, Order dated 18 May 2015 passed by the Divisional Commissioner and Order dated 13 October 2016 passed by the Minister (Revenue). Proceedings are restored on the file of Additional Collector to be decided afresh after giving copies of all the documents relied upon by the Additional Collector in the Order dated 13 October 2016. Appellants shall appear before the Additional Collector on 15 December 2023 and obtain further directions. Additional Collector shall decide the proceeding afresh without being

influenced, in any manner, by his earlier Order dated 10 June 2023 or of Orders passed by the Divisional Commissioner and Minister (Revenue). All the contentions of the parties on merits are kept open.

6. With the above directions Writ Petition is disposed of.

SANDEEP V. MARNE, J.

KISHOR VISHNU KAMBLE

Digitally signed by KISHOR VISHNU KAMBLE
Date: 2023.12.06 18:08:59 +0530