IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 5707 of 2022

Shankar S/o Nathu Khokle
Versus
Sau. Mankarnabai Lodbaji Bhaval and others

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order
	Shri P.R.Karekar, Advocate for the petitioner. Shri A.M.Kukday, Advocate for the respondent no.1. Shri Shyam Bissa, AGP for the respondent nos. 5 & 6.

CORAM : ANIL S. KILOR, J.
DATED : 18th DECEMBER, 2023.

Heard.

2. The order dated 24th November, 2021 passed by the learned Maharashtra Revenue Tribunal, Nagpur allowing the appeal preferred by the respondent no.1 and thereby setting aside the order dated 15th October, 2018 passed by the Tehsildar, Mohgaon, Dist. Yavatmal directing the respondent no.1 to restore the agricultural land gat no.43/4 to the applicants before the Tehsildar, is under challenge in this writ petition.

3, Learned counsel for the petitioner has raised a challenge to the order of the Maharashtra Revenue

Tribunal on the ground of jurisdiction. It is submitted that the transaction in question is of 2006 and therefore the order passed by the Tehsildar cannot be considered and treated as the order passed under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (in short hereinafter referred as “Act, 1974”) but was passed under Section 36(2) of the Maharashtra Land Revenue Code, 1966 (in short hereinafter referred as “MLR Code, 1966”) and therefore the jurisdiction would not lie before the Maharashtra Revenue Tribunal. It is submitted that an appeal is provided under Section 247 of the MRL Code, 1966.

4. After going through the record, I find substance in the submission of the learned counsel for the petitioner. Though, the Tehsildar has observed that the order dated 15th October, 2018 was passed under the provisions of under Section 36 of MRL Code, 1966 and under the provisions of Act, 1974, however, considering the date of transaction i.e. 30th June, 2006, I have no hesitation to hold that the order of Tehsildar was under the provision of MRL Code, 1966 and as such remedy by way of appeal is available to the respondent no.1 under Section 247 of the MLR Code, 1966 and not under Section 6 of the Act, 1974.

5. In the circumstances, the impugned order dated 24th November, 2021 passed by the learned Maharashtra Revenue Tribunal, Nagpur is hereby quashed and set aside with liberty to the respondent no.1 to file appropriate proceeding if the respondent no.1, so desires, under the provision of MLR Code, 1966.

6. In case the respondent no.1 files an appeal before the Maharashtra Revenue Tribunal, Nagpur under the provisions of MLR Code, 1966 raising a challenge to the order of the Tehsildar dated 15th October, 2018, within four weeks from today the period from the date of filing an appeal before the Tribunal till the filing of the appeal under Section 247 of MLR Code, 1966 may be considered as the period spent in pursuing the wrong remedy, while considering the point of limitation.

7. The writ petition is disposed of.

[ANIL S. KILOR, J.]