

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

Writ Petition No.6059 of 2016

- 1) Najukram Shrawan Chandewar, Aged about 44 years, Occ. Agriculturist, R/o Gothangaon, Tah. Arjuni, District : Gondia.

.... Petitioner(s)

// VERSUS //

- 1) The State of Maharashtra,
Through its Secretary, Department of Revenue, Mantralaya, Mumbai.
- 2) Presiding Officer/Member,
Maharashtra Revenue Tribunal, Nagpur
- 3) The Tahsildar, Arjuni Mor, Tah. Arjuni,
District Gondia.
- 4) The Circle Office/Talathi Saza,
Keshori, Tah. Arjuni More, District Gondia.
- 5) Rajaram Badru Waghmare (Dead)
through Lrs.
5-a) Smt. Hirabai Wd/o Rajaram Waghmare, aged about 46 years, Occ. Labour,
5-b) Pitambar Rajaram Waghmare, aged about 26 years, Occ. Labour,
Both R/o Gothangaon, Tah. Arjuni Mor, District : Gondia.

... Respondent(s)

Shri R.S. Giripunje, Advocate for the Petitioner/s
Shri D.P. Thakare, Addl.G.P. for the Respondent Nos.1 to 4/State
Shri B.S. Dhandale, Advocate for the Respondent Nos.5(a) and 5(b)

CORAM : ANIL S. KILOR, J.
DATED : 17.07.2023

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule is made returnable forthwith. Heard finally by consent of the parties.
3. The present matter pertains to the restoration of land to the tribal. In this case, the Tahsildar, Arjuni Mor and the Maharashtra Land Revenue Tribunal, Nagpur both have held in favour of the tribal and thereby, directed the petitioner to restore back the land to the respondent No.5.
4. Admittedly, the father of deceased respondent No.5 sold out the land in question to the father of the petitioner on 05.04.1974. Further, undisputedly the respondent No.5 is claiming to be 'Halbi', which was first time recognized as Scheduled Tribe in the year 1976 i.e. after the sale deed was executed on 05.04.1974.
5. The Full Bench of this Court in the case of ***Baliram S/o Reva Chavhan Vs. Gajanan S/o Shekrao Wanjare and others*** reported in 2023 (3) Mh. L.J. 737, has held that, in the matters of the restoration of land to the tribal transferor, on the date of transfer or transaction, the transferor must be a person who is a tribal within the meaning of Section 2(1)(j) of the Maharashtra Restoration of Lands to Scheduled Tribes, 1974 (for short "Restoration Act") and subsequent recognition of a transferor as a

tribal would not entitle him to seek restoration of land transferred by him to a non-tribal transferee.

6. The whole controversy involved in the present matter squarely covers by the judgment in the case of ***Baliram S/o Reva Chavhan*** (supra).

7. In the circumstances, as on the date of the sale deed dated 05.04.1974 the respondent No.5 was not recognized as 'Halbi' Scheduled Tribe, but it was subsequently recognized in the year 1976, the respondent No. 5 is not entitled for the benefit under the Restoration Act. Accordingly, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The order dated 02.11.2015 passed by Maharashtra Revenue Tribunal, Nagpur and the order dated 18.06.2015 passed by the Tahsildar, Arjuni Mor, are hereby quashed and set aside.

Rule accordingly, No costs.

[ANIL S. KILOR, J.]