

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO. 6771 OF 2022**

Chandrashekhar S/o Gulabrao
Parchake, Aged about 30 years,
Occupation- Agriculturist, R/o Pathri,
Tah. Kelapur, District Yavatmal

...Petitioner

// VERSUS //

1. Tahsildar-cum-Agriculture Land
Tribunal, Kelapur, Tah. Kelapur,
District Yavatmal

Deorao S/o Goshya Rathod,
Aged about 55 Years, Occupation :
Agriculturist,

Ganju S/o Goshya Rathod (Missing)
through his legal heirs
- 3A) Smt. Kusum W/o Gangu Rathod
Aged about 55 years, Occupation:
Housewife,
- 3B) Yogesh S/o Gangu Rathod,
Aged about 35 Years, Occupation:
Agriculturist
- 3C) Ramesh S/o Gangu Rathod,
Aged about 32 years,
Occupation : Agriculturist
- 3D) Smt. Uma W/o Kailash Pawar
(Daughter of Gangu Goshya Rathod)
Aged about 37 years, Occupation :
Housewife
All R/o Pathri, Tah. Kelapur, District
Yavatmal

... Respondents

Shri A.S.Dhore, Advocate for the petitioner.

Shri Deepak Thakare, Addl. Government Pleader for the respondent no.1/State.

Shri Vishant Rathod i/b Shri Suhas Lande, Advocate for the respondent nos. 2 and 3(A) to 3(D).

CORAM : ANIL S. KILOR, J.

DATED : 5th APRIL, 2023.

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. In this writ petition, the challenge is raised to the order dated 18th October, 2022 passed by the Maharashtra Revenue Tribunal, Mumbai in Case No. APL/ST-RESTO/YAV-01/2022 directing the Tehsildar to take possession from the petitioner from the land in dispute and handed over to respondent no.2, respondent nos.3(A) to 3(D), is under challenge.

3. The petitioner filed an application for restoration of land in question under the provisions of Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (in short referred as “Act, 1974”). Thereupon the Tehsildar conducted to issue inquiry and directed the restoration of land under the Act, 1974.

4. Thereafter, the respondent nos.2, 3(A) to 3(D) preferred an appeal which is pending under the Maharashtra Land Revenue Tribunal. In the said appeal interim protection was granted in favour of the respondent nos. 2, 3(A) to 3(D).

5. However, on 18th April, 2022 it was not continued and thereafter on 25th May, 2022, the Tribunal directed the parties to maintain the status quo. In the meantime on 13th May, 2022, the Tehsildar handed over the possession of the land in question to the respondent nos. 2, 3(A) to 3(D).

6. Considering the peculiar facts of the present case wherein the Tehsildar hurriedly handed over the possession just because on the date when the possession was handed over there was no interim order in force, the learned Tribunal expressed his anguish vide impugned order and make an order to conduct the inquiry.

7. Be that as it may, the facts remain that the Tehsildar has rightly or wrongly handed over the possession to the petitioner.

8. Thus, at this stage, I am of the opinion that without entering into the merits of the matter, the purpose would be suffice to direct the Tribunal to decide the appeal within one month from the date of appearance of the parties. Accordingly, I pass the following order:

- i. The writ petition is partly allowed.
- ii. Order dated 18th October, 2022 passed by Maharashtra Revenue Tribunal, Mumbai in Case No. APL/ST-RESTO/YAV-01/2022 is hereby quashed and set aside to the extent the Tehsildar was directed to hand over the possession back to the respondent nos. 2 and 3(A) to (D).

- iii. The Maharashtra Revenue Tribunal, Nagpur is directed to decide the appeal within one month from the date of appearance of the parties.
- iv. The parties shall appear on **12th April, 2023** before the Nagpur Bench. In case Presiding Officer is not available at Nagpur with further instructions appear before the Incharge Court.
- v. Considering peculiar facts of the present case more particularly the way the Tehsildar handed over the possession to the petitioner, to strike the balance, it is directed that the petitioner shall not cultivate the land in question till the decision of the appeal, so that he may not claim equity on the ground that the crops are standing in the field.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

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by
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