



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 744 OF 1992

1. Kashinath Vishwanath alias
Krishnath S/o Pandurang Thodsare
since deceased through L.Rs.
 - 1A) Suresh S/o Kashinath Thodsare
Age 46 years, Occu: Agril.,
R/o: Ter, Tq. and Dist. Osmanabad
 - 1B) Balasaheb S/o Kashinath Thodsare
Age: 40 years, Occu: Agril.,
R/o. As above
 - 1C) Mangal W/o Rambhau Bukan
Age 50 years, Occu: Household,
R/o. Bukanwadi, Tq. and Dist. Osmanabad
 - 1D) Vatchala W/o Madhukar Naiknavare
Age 43 years, Occu: Household,
R/o: Dhorala, Tq. Kallam,
Dist. Osmanabad
 2. Vithoba S/o Govind Jadhav
Age 60 years, Occu. Agril.,
R/o: Ter, Tq. and Dist. Osmanabad
- ... PETITIONERS**

VERSUS

Dhondiram Mahalingappa Shiral
Age: 48 years, Occu: Agril.,
R/o. Ter, Tq. and Dist.: Osmanabad

... RESPONDENTS

....

Mr. N. P. Patil Jamalpurkar, Advocate for Petitioners
Mr. V. D. Salunke, Advocate for Respondent

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CORAM : S. G. MEHARE, J.

DATE : 29 FEBRUARY 2024

ORAL JUDGMENT :-

1. Heard the learned Counsel for the petitioners and the learned Counsel for the respondent.

2. A short issue involved here is whether the Tahsildar can review his order passed under the Hyderabad Tenancy and Agricultural Lands Act, 1950 (for short 'the Act of 1950').

3. The landlord had filed an application before the Tahsildar bearing No.1971/TNC/38-G-PF/35. On the application of the landlord, the Tahsildar passed an order on 04.09.1990, accepting that the purchase certificate granted to the respondent Dhondiram was legal. He also declared that the respondent, Dhondiram should take possession of the suit land. Knowing this order, the present petitioner had submitted an application before the Tahsildar. On his application, the Tahsildar, by order dated 04.12.1990, directed the Circle Officer to divide the disputed land between the present petitioner and the respondent, Dhondiram. The respondent, Dhondiram, had impugned that order before the Deputy Collector. The Deputy Collector dismissed the appeal. The

matter went to the Maharashtra Revenue Tribunal. The Maharashtra Revenue Tribunal held that after passing the order, the Tahsildar is functus officio and has no authority to revise his own order. With these observations, the Maharashtra Revenue Tribunal quashed the order of Tahsildar dated 04.12.1990.

4. The learned Counsel for the petitioners argued on the facts. He also argued that the order of the Tahsildar dated 04.12.1990 was not a quasi-judicial order. It is an administrative order. He would also submit that the order dated 04.09.1990 was without notice to the petitioner. He has argued that the Tahsildar, under his administrative power, had corrected his mistake in passing the order dated 04.09.1990. However, the Maharashtra Revenue Tribunal erred in passing the impugned order.

5. The learned Counsel for the contesting respondent would submit that the tenancy tribunal has no power to review the order. The Act of 1950 is silent on review powers. It was a quasi-judicial order. Every order of the Tahsildar is appealable under Section 90 of the Act of 1950. Therefore, the Maharashtra Revenue Tribunal has passed the correct order. There is no substance in the petition.

6. The order dated 04.09.1990 was passed by the tenancy Tahsildar under the Act of 1950. After knowing the said order, the petitioner moved a plain application instead of preferring appeal against that order. On his application, the Tahsildar, without calling any party, much less verifying the legal provision, has passed the impugned order.

7. The Act of 1950 does not provide for the review of orders to any tenancy authorities. The review power is a creation of law. It is not an inherent power. Unless the authority has been conferred with the power to review, no authority could review its order.

8. The learned Counsel for the petitioner could not satisfy the Court by quoting any case law or the provisions of the law that the Tahsildar has the power to review its order under the Act of 1950.

9. The order of the Maharashtra Revenue Tribunal is legally correct. There is no substance in the petition. Hence, the Writ Petition is dismissed.

10. No order as to costs.

11. The learned Counsel for the petitioner is insisting the Court grant a leave to the petitioner to prefer the appeal. The law is provided for the appeal against the impugned order. Therefore, granting leave by this Court would be of no use. He also prayed to continue the stay order till he approached the appellate Court. Considering the facts of the case and the pendency of this petition for thirty-two years, the Court did not find grounds to continue the interim stay order.

[S. G. MEHARE, J.]

SMS