



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

WRIT PETITION NO. 8251 OF 2024

MAHADU GANU KHUTALE DIED THR LRS RAJARAM
MAHADU KHUTALE DIED MAINABAI RAJARAM KHUTALE
AND OTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

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Mr. Manoj Uttamrao Shelke, Advocate for the Petitioners.
Mr. A. V. Lavte, AGP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 07th AUGUST, 2024.**

P.C.:-

1. Heard Mr. Shelke, learned Advocate appearing for the petitioners and the learned A.G.P. appearing for respondent-State.
2. The petitioners seek to quash proceeding no.२०२३/आरओआर/हैद्राबाद/कुळ/कावि initiated by respondent no.3 before Tahsildar, Beed for acceptance of reasonable purchase price and issuance of tenancy certificate.
3. Mr. Shelke, learned Advocate appearing for the petitioners would submit that infact in File No.9/3/58 issue as regards to the declaration under Section 38-E of the Hyderabad Tenancy and Agricultural Land Act, 1950 as regards to land in question has been considered and decided by the Tahsildar and Tenancy Tribunal for Beed Taluka and finding is arrived that respondents cannot seek declaration under Section 38-E. He would submit that in light of adjudication of issue in previous proceeding vide order dated 29.09.1960 passed by the Tribunal, the present proceeding initiated by respondent no.3 is barred by principles of *res-judicata*.

4. Apparently, issue as regards to *res-judicata* as sought to be raised in this petition will have to be dealt with by the Tahsildar before whom respondent no.3 has initiated proceeding seeking relief of issuance of ownership certificate or acceptance of purchase price. If such an issue is raised by the petitioners, it is expected that the learned Tahsildar would frame appropriate issue, record evidence of the parties and after granting sufficient opportunity to make submissions pass appropriate order. This Court cannot delve into the issue of *res-judicata* as sought to be raised in Writ Petition, when Competent Authority is seized with the substantive proceeding.

5. In that view of the matter, Writ Petition stands dismissed with observations as above.

(S. G. CHAPALGAONKAR)
JUDGE