



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8778 OF 2024

Raisuddin Zainul-Abedeem Kazi
Age: 33 years, Occu. Business,
R/o. Ramnastpura, Aurangabad.

... PETITIONER

V/s.

1. The State of Maharashtra,
Through: The Secretary,
Urban Development Department,
Mantralaya, Mumbai.
2. The District Collector, Aurangabad
Office: Administrative Building,
Anna Bhau Sathe Chowk, Fazilpura,
Aurangabad – 431 001.

... RESPONDENTS

.....
Mr. Mohd. Aseem, Advocate for the Petitioners
Mr. V.M. Kagne, AGP for the Respondent-State
.....

CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRADE, JJ.

DATE : 21st August, 2024

JUDGMENT (Per: Y.G. Khobragade, J.):-

1. Rule. Rule made returnable forthwith. Mr. Kagne the learned AGP waives service of notice on behalf of Respondent Nos. 1 & 2. With the consent of both the sides, the matter is heard finally at the stage of admission.

2. We have considered the strenuous submissions canvassed on behalf of the Petitioner and the Respondents. By the present Petition under Article 226 of the Constitution of India, the Petitioner is praying for issuance of Writ of Mandamus, directing the Respondent No. 2 to conduct hearing on Application No. 802/2022 filed by him under Section 59 of the Maharashtra Land Revenue Code, 1966 by considering the report dated 03.11.2023 submitted by the Additional Tahsildar, Aurangabad and to decide the same within a period of four weeks.

3. On face of record it appears that the State Government is the owner of land bearing Survey Nos. 107 and 109 situated at Aurangabad (Sambhaji Nagar) and one Shri Deorao Dadarao Shinde was cultivating said land being a "Pattedar" (holder of land). However, one Shri Kanhu Dhondiba Late with connivance of Talathi mutated his name without any rights. Further after death of Shri Kanhu Dhondiba Late, name of Shri Gopinath Kanhu Late was recorded being his legal heir and after death of Gopinath, names of his LRs were illegally recorded in 7/12 extract. Therefore, on 19.12.2022, the Petitioner has filed an application u/s 59 of the Maharashtra Land Revenue Code, 1966 bearing Application No. 802/2022 before the Respondent No.2 - District Collector, Aurangabad and thereby prayed for an inquiry into the mutation entries carried out in the name of Shri Kanhu Dhondiba as an owner of the Government Land and further prayed to remove encroachment on the

said land. On 21.04.2023, the Respondent No.2 issued notices to all the interested persons and directed the Tahsildar to submit its report. Thereafter, the Tahsildar, Aurangabad submitted its report stating that as per revenue record in the year 1911 name of Shri Deorao Dadarao Shinde appearing as a “Pattedar” (holder of land) and as per revenue entry in Shetwar Pustak of the year 1935 name of Shri Deorao Dadarao Shinde appears as ‘Pattedaar’ (holder of land). Thereafter on 28.11.2023, the Petitioner has submitted “Pursis” before the Respondent No.2 that all the parties have filed their reply and written arguments and the said matter was reserved for order however, the Respondent No.2 the then Collector could not pass the order due to his transfer.

4. On perusal of Roznama (Exhibit-E) it shows that after completion of pleadings and hearing the then Collector was transferred and new Collector resumed the charge. As per Roznama at Exhibit-E it appears that after transfer of then District Collector, the matter was again listed for hearing i.e. on 29.04.2024, but both parties were absent and therefore the said matter was adjourned to 11.06.2024 but the District Collector, Aurangabad was busy in some revenue work hence the matter was adjourned to 18.06.2024 and thereafter it was listed on 02.07.2024. Merely, because the matter is adjourned twice it does not mean that the Respondent No.2 is prolonging the decision. Since, many applications like the Petitioner’s application are pending on the file of Respondent No.2 and no special exigencies are assigned to decide the

Petitioner's application on priority basis, therefore, we do not find it necessary to issue any such directions against the Respondent No.2 to decide the Petitioner's application out of turn by giving priority to his application.

5. In view of above, **this Petition is dismissed. Rule is discharged.**

[Y.G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]