



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO. 48 OF 2023
IN
WRIT PETITION NO. 8087 OF 2021

Bansi s/o Ganpat Salve
Age: 85 years, Occu: Agriculturist
R/o Dahegaon, Avahana, Tal: Sillod,
District- Aurangabad.

...APPLICANT
[LR of Owner of the suit
property not impleaded
in Writ Petition]

VERSUS

1. The State of Maharashtra
Through the Secretary,
Department of Revenue and Forest,
Mantralaya, Mumbai.
2. The Additional Collector,
Aurangabad.
3. The Tehsildar, Sillod,
Taluka: Sillod, District: Aurangabad.
4. Shaikh Sattar s/o Shaikh Begu
Age: 63 years, Occu: Agriculturist
R/o. Dahegaon, Avahana, Tal: Sillod,
District- Aurangabad.
5. Shaikh Ibrahim s/o Shaikh Begu
Age: 77 years, Occu: Agriculturist
R/o. Naregaon,
Taluka and District- Aurangabad.
6. Abdul Rahim s/o Shaikh Karim
Age: 25 years, Occu: Agriculturist
R/o. Jainuddin Colony, Tal: Sillod,
District- Aurangabad.
7. Abdul Ajim s/o Shaikh Karim

Age: 20 years, Occu: Agriculturist
R/o. Jainuddin Colony, Tal: Sillod,
District- Aurangabad.

8. Rashidabi w/o Shaikh Karim
Age: 52 years, Occu: Agriculturist
R/o. Jainuddin Colony, Tal: Sillod,
District- Aurangabad.

9. Shaikh Khalil s/o Shaikh Ibrahim
Age: 36 years, Occu: Agriculturist
R/o. Naregaon,
Taluka and District- Aurangabad.

...RESPONDENTS

[Nos. 1 to 3 are Ori. Respondent
Nos. 1 to 3 in Writ Petition, and
Nos. 4 to 9 are Ori. Petitioners in
Writ Petition]

Mr. Amol Joshi, Advocate for Applicant
Mr. V.D. Sapkal, Senior Advocate i/b. Mr. S.R. Sapkal, Advocate
for respondent Nos. 4 to 9.
Mr. D.J. Patil, AGP for State

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CORAM : NITIN B. SURYAWANSHI, J.

RESERVED ON : 4th OCTOBER, 2024
PRONOUNCED ON : 14th DECEMBER, 2024

ORDER :

1. This application is filed by applicant seeking review of order dated 13th June, 2022 passed in Writ Petition No. 8087 of 2021 on the ground that he was not made party to the writ petition.

2. Applicant claims to be legal representative of Ganpat Salve, original owner of land Gut No. 38 (Old Survey No. 10)

Bhagyawant Punde

admeasuring 3 Hectare 69 Are situated at village- Dahegaon, Taluka- Sillod, District- Aurangabad (for short 'suit land'). Respondents No. 4 to 9 filed writ petition arraying respondents No. 1 to 3 as party respondents challenging the order dated 08.07.2021 passed by Maharashtra Revenue Tribunal, Aurangabad in Case No. 08/A/2020/Aurangabad and order dated 19.11.2019 passed by Additional Collector in case No. Ja.Kra.Bhusudhar/Inam/M.Mash/dahihaon/Ni.Ku/Cr-04/2018 and seeking direction to the 2nd respondent therein to allow the application dated 28.11.2018 submitted by petitioners for regularization of sale deed in respect of suit land.

3. Heard learned advocate for applicant, learned Senior Advocate for respondent Nos. 4 to 9 and learned AGP for State. Perused the application and documents placed on record.

4. Learned advocate for applicant vehemently submits that though applicant is successor of Pandu and Ganpat and though he was party to the earlier round of litigation up to this Court, deliberately he was not made party in writ petition before this Court. Respondents No. 4 to 9/petitioners were well aware of the fact that applicant had interest in the suit land and he is necessary party, in spite of that he was not made party to the

writ petition and on this ground alone the order passed in writ petition needs to be reviewed and writ petition is liable to be dismissed. The suit land is a inferior vatan land and it could not have been held to be '*madat mash inam*' land and therefore, petitioners were not entitled to claim relief by relying on amended provision of the Hyderabad Abolition of Inams and Cash Grants Act, 1954 (for short 'Act of 1954').

5. Learned Senior Advocate for respondents No. 4 to 9, on the other hand, submits that in the earlier round of litigation in the order passed by Hon'ble Minister the suit land was held as madat mash inam land. Said order is confirmed by this Court in the writ petition No. 382 of 2018. The applicant was party to the said litigation, so also, to the review application, in which this Court directed the District Collector to issue paper publication, which was issued, and after conducting inquiry, land was held to be madat mash inam land. He further submits that only Pandu was given occupancy certificate of suit land, hence, other predecessors of Pandu had no legal right in the suit land. He further submits that even there is similar amendment in the Maharashtra Inferior Village Watans Abolition Act, thereby regularizing the transfer. Therefore, there is no merit in the

review and same may be dismissed.

6. It is a matter of record that as per certificate issued by Tahsildar, Sillod, dated 10.10.1969 it was certified that Survey No. 10 of village- Dahigaon, Taluka- Sillod has been abolished under the Act of 1954 and regranted in favour of Pandu Ramji Salve, resident of Dahegaon and he has deposited full occupancy price. In appeal preferred by respondents No. 4 to 9 before the Hon'ble Minister against Sandu Ramji Salve, Pandu Ramji Salve, applicant being legal heir of Ganpat, Bhima Raghu Salve and Sonu Keru Salve, deceased through Lrs. Bharat Sonu Salve, the Hon'ble Minister concluded that the suit land is governed by the Act of 1954 and since respondents have failed to prove that the suit land is madat mash inam land with proper evidence, the amendment in the Act of 1954 for regularization could not be made applicable to the suit land.

Respondents challenged said order before this Court in Writ Petition No. 382/2018 which was dismissed by this Court. Thereafter in review application No. 176/2018 in Writ Petition No. 382/2018 filed by respondents this Court has observed that;

"6. Nevertheless, since these applicants have made a representation dated 28/11/2018, the District Collector, Aurangabad is at liberty to consider the same

within the framework of the law. It be noted that this Court has not expressed any opinion in favour of said representation.

7. The District Collector, Aurangabad would give an opportunity of hearing before passing an order on the said representation, in view of the submission that the District Collector has already issued notices through paper publication and is considering the representation."

7. Pursuant to the application of respondents dated 28.11.2018, Collector directed Tahsildar to submit a report. A public notice was published in local paper, Daily Samna on 02.12.2018 calling upon interested parties in the suit land to contest the claim of respondents. The proclamation was also placed on the notice board of Village Panchayat, Dahegaon and panchnama to that effect was effected on 11.12.2018. On the same day, panchnama is conducted which states that after going to the suit land panchas have found that respondents No. 4 to 9 are in possession of the suit land and their names are there in the 7/12 extract.

8. Accordingly, inquiry was conducted by the Tahsildar and a report is submitted that suit land is madat mash inam land, which was regranted in favour of Pandu Salve. In spite of this position on record, the Collector has rejected the

representation stating that appeal is pending with the Hon'ble Minister.

9. Considering this position on record and amended provision, this Court allowed the writ petition and passed order under review, holding that in view of amended provision it was necessary for respondents-authorities to regularize the sale transaction between Pandu Salve and Shaikh Begu.

10. In the light of aforestated facts, this Court is of the opinion that applicant has failed to prove that he is legal heir of Pandu Salve, he therefore, cannot be said to be a necessary party to the writ petition filed by respondents in the peculiar facts of the present case. Fact remains that applicant failed to respond to the proclamation issued before conducting inquiry in the representation/application dated 28.11.2018. Applicant, therefore, has failed to make out a case for review. Application *sans* merit is dismissed.

11. It is made clear that above observations are limited to the extent of deciding the review application.

[NITIN B. SURYAWANSHI, J.]