

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

31 WRIT PETITION NO. 571 OF 2021
WITH
CIVIL APPLICATION NO. 17139 OF 2022
IN WP/571/2021

AMBADAS ARJUN KADAM DIED THR LRS GANGARAM
AMBADAS KADAM AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Mr. Bhumkar R.P.
AGP for Respondents/State : Mrs. M.L. Sangit
Advocate for Respondent No.4 : Mr. Bhadekar D.R.

...

CORAM : S. G. MEHARE, J.

DATE : 07th MAY, 2024.

PER COURT :

1. Learned Counsel for the petitioners submits that the matter may be disposed of at this stage.
2. Heard the learned Counsel for the petitioners and the learned Counsel for the respondents.
3. The learned Counsel for the Petitioner submits that

initially, the suit land was 'Inam' land. The father of the petitioners, Ambadas and others were tenants of the said land. He further submits that the occupancy price was determined. However, thereafter the 'Inam' land Act was abolished on 01.07.1960. Since the 'Inam' land was abolished, the said land went to the landlord, and the landlord became its owner.

4. It is further argued for the petitioners, before the abolition of the said Act, the father of the petitioners and others have paid the occupancy price, and they have acquired the title. However, due to illiteracy, they purchased the suit land through a registered sale deed in 1966. Therefore, the leave of the Competent Authority to transfer the land was not required. The Divisional Commissioner has not considered this material aspect. Both orders impugned before this court are ex-parte. The learned Additional Commissioner reserved the case for judgment on 14.08.2018 and passed the order on 10.02.2020. Passing such a delayed judgment is not the judgment in the eye of law. The judgment should be delivered in a reasonable time. Therefore, it is liable to be set aside.

5. He further argued that the points raised by the petitioners were not considered in the order by the learned Dy. Divisional Commissioner dated 10.02.2022. It was a mechanical order. The substantial issues involved in the petition were not discussed. Therefore, the said order is without reason. The order without reason is not the order in the eye of law. Therefore, the matter may be remitted to the learned Dy. Divisional Commissioner, Aurangabad, for deciding on afresh or the learned Dy. Collector may be directed to hear the matter on merit.

6. Learned Counsel for the petitioners submits that the learned Deputy Collector, Latur, has passed an order on 28.09.2022 and disposed of the application by observing that it has been disposed of subject to the decision of this Writ Petition No. 571 of 2021.

7. Learned Counsel for respondent No. 4 submits that Section 6 of the Hyderabad Inam Abolish and Cash Grant Act, 1954 has been amended in 2015, wherein it has been added that if there are transactions without permission from the

Competent Authority, the purchaser may apply to the Competent Authority to seek post facto permission by depositing 'Najrana'. The petitioners had filed such an application before the learned Deputy Collector on 16.09.2020. Therefore, they admitted that permission was essential.

8. After going through the order of the Deputy Collector, which was the first order dated 30.08.1991, it appears that the present petitioners appeared in that petition and filed a written statement but remained absent. They did not argue the matter. Therefore, the order was passed against them. The Additional Divisional Commissioner passed an order about two years after reserving the appeal for judgment. That order is also without reason.

9. The Petitioner has a case that no such permission is required since the 'Inam' land was abolished; therefore, his sale deed is legal and valid.

10. Per Contra, the learned Counsel for the present respondent No. 4 submits that in view of the amendment to the

2015 Act, such permission is essential for the 'Inam' land.

11. The crucial point, whether permission is essential for purchasing the land in question is essential after the abolition of the Inam Lands Act, has not been determined by the Competent Authority, therefore, by keeping all these points open to both sides, the order of the Deputy Collector passed in file No. 1989/DSK/Inam/92 dtd. 30th August 1991, and the order of the Additional Divisional Commissioner dated 10.02.2020 passed in Prakaran/No./2011-Mashaka-Bhus-Inam-Kavi-CR-75 stands quashed and set aside.

12. The petition is remanded to the Deputy Collector, Latur, for a fresh decision by restoring file No.1989/DESK/INAM-92.

13. Both parties shall appear before the learned SDO, Latur, on 30.05.2024.

14. The Deputy Collector (Land Records)Latur shall grant both sides an opportunity to either amend the application or file

additional Written Statements and decide the applications within six months from their appearance.

15. In view of the above, the Writ Petition is allowed and disposed of.

16. Consequently, all Civil Applications are also disposed of.

(S. G. MEHARE)
JUDGE

mahajansb/