



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 7586/2023

M/s. Abhay Enterprises, Gajipur and anr. .Vs. State of Maharashtra, Ministry of
Revenue and Forest , Mumbai and Others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V. S. Kukday, Advocate for petitioners.
Mr. H. D. Dube, A.G.P for respondent Nos. 1 to 4.
Mr. Y. S. Gorle, Advocate for intervenor

CORAM : ANIL L. PANSARE, J.

DATE : 12.08.2024

Civil Application No.3459/2023

Heard.

2. Applicant is the one at whose instance order dated 06.12.2013 passed by respondent No.4 – Tahsildar, Akot has been set aside by respondent No. 3 – Sub Divisional Officer, Akot. He seeks permission to intervene in the matter.

3. Presence of the applicant appears to me to be proper, if not necessary. Accordingly, the application is allowed. The petitioners shall make the applicant party respondent No.5. Amendment be carried out forthwith.

4. The application is disposed of.

Writ Petition No.7586/2023

Heard Mr. V. S. Kukday, learned counsel for petitioners, Mr. H. D. Dube, A.G.P for respondent Nos. 1 to 4 and Mr. Y. S. Gorle, learned counsel for respondent No.5.

2. The petitioners' grievance is that the respondents, more particularly, respondent No.2 – District Collector, Akola and respondent No. 3 – Sub Divisional Officer, Akot have acted grossly in violation of the provisions of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as the “MLR Code”).

3. Respondent No. 4 – Tahsildar, vide order dated 06.12.2013, granted permission to convert the user of the land from agriculture to non agriculture.

4. Respondent No. 5 approached respondent No. 2 – District Collector to stay aforesaid order on the count that the petitioners have obtained order by playing fraud upon respondent No.4. Respondent No.2 directed respondent No.3 to treat the application filed by respondent No.5 as an appeal under the provisions of the MLR Code and decide the same.

5. To my mind, this order has been passed by giving complete go bye to the provisions of the MLR Code. Section 247 of the MLR Code provides for an appeal and Section 250 provides that the appeal shall be filed before expiry of either 60 days or 90 days, as the case may be. In the present case, the order has been passed by Tahsildar, who is inferior in the rank to the Collector and, therefore, the appeal ought to have been filed within 60 days.

6. Respondent No.2, however, permitted filing appeal after about 10 years, that too without any application in terms of Section 251 of the MLR Code, to condone the delay.

7. Respondent No.3 then processed the grievance of respondent No. 5 and vide impugned order, set aside the order passed by respondent No.4. In doing so, he has committed serious error of law, in the sense, he has not passed the order in appeal but has passed order under Section 258, which provides for review of the orders. Respondent No. 3 has, thus, reviewed order passed by Tahsildar, which apparently is an error of law.

8. The order impugned, therefore, is unsustainable. The petition is accordingly allowed. Impugned order dated 11.10.2023, passed by respondent No. 3 – Sub Divisional Officer, Akot in Proceeding No. NAP – 34/Gajipur/ 2022-23, is quashed and set aside.

9. Respondent No.5 is at liberty to approach the appropriate authority for appropriate remedy as is available in law.

10. The petition is disposed of in the above terms. No order as to costs.

(Anil L. Pansare, J.)