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

Writ Petition (WP) No. 1663 of 2024

Nitin Shrikrishna Mahajan and another
Versus
State of Maharashtra, Revenue & Forest Department, through its Secretary, Mantralaya, Mumbai and others

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

Shri V.N.Morande, Advocate a/w Shri A.G.Khanzode, Advocate for the petitioners.
Shri Alap Phalsikar, AGP for the respondents/State.

CORAM : N.R.BORKAR, J.
DATED : 6th SEPTEMBER, 2024.

This petition takes exception to the order dated 30th June, 2023 passed by the respondent no.3 the Tehsildar Bhadrawati.

2. On 23rd July, 2008, the owners of the land bearing Survey No. 15 ad-measuring 1H 34R at Mouza Bhamdeli, Tahsil Bhadrawati, District Chandrapur, who were belonging to Scheduled Tribe, had made an application under Section 36 of the Maharashtra Land Revenue Code, 1966 to the competent authority to sell the said land to the petitioners. Due inquiry was

conducted and market value of the land in question was determined at Rs. 23,77,510/-.

3. By order dated 8th November, 2016, permission as sought was granted subject to payment of sum of Rs.17,88,132/- to the Government as unearned income.

4. The amount of unearned income was paid and thereafter on 25th November, 2016 the owners executed the sale-deed of land in question in favour of the petitioners.

5. According to the petitioners after five years of execution of sale-deed, on 9th July, 2021 they received notice from respondent No.3, and by the said notice they were called upon to pay additional amount of Rs. 8,49,068/- towards unearned income. It is not in dispute that said notice was issued on the basis of audit objection.

6. The writ petition being W.P. No. 4346 of 2021 was filed before this Court impugning the demand of additional amount towards unearned income and consequential action of respondent No.3. This Court by order dated 14th March, 2023, directed the respondent No.3 to hear the parties and pass the fresh order. The operative part of the order passed by this Court reads thus:

> "(i) In the light of the communication issued by the Additional Collector to the Tahsildar dated 03.11.2020 as well as in the light of the explanation submitted by the petitioners on 12.07.2021 and 22.07.2021, the Tahsildar, Bhadrawati shall hear the parties and pass a fresh order if it is found that the market value determined by the AG is correct.
> (ii) To enable such consideration the order dated 20.07.2021 passed by the Tahsildar, Bhadrawati, is set aside on the ground that sufficient opportunity was not granted to the petitioners to substantiate their stand.
> (iii) To facilitate re-consideration of the matter, the petitioners shall appear before the Tahsildar, Bhadrawati on 29.03.2023. The Tahsildar, Bhadrawati shall pass a fresh order after considering the entire record and the observations made in this order. Based on such adjudication further steps in accordance with law be taken.
> (iv) The amount of Rs.8,49,068/- deposited by the petitioners shall continue to remain in deposit subject to final adjudication of the matter.
> (v) The writ petition is allowed in aforesaid terms. Rule accordingly. No costs."

7. By the order impugned, which the respondent No.3 has passed pursuant to the order passed by this Court, the demand of additional amount of Rs.8,49,068/- towards unearned income is maintained and the petitioners are directed to pay the said amount.

8. Admittedly, at the time of grant of permission due inquiry was conducted in respect of

market value of the land in question and report from the various authorities was called. In the impugned order there is no finding that the market value of the land in question was wrongly determined at the rate of Rs.23,77,510/-. Even otherwise the petitioners cannot be made to suffer for the lapses, if any, of the authorities concerned. The order impugned is therefore set aside. The petition is allowed.

9. The amount deposited by the petitioners in this Court shall be refunded to them with accrued interest, if any.

[N.R.BORKAR, J.]