



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

WRIT PETITION NO.2989/2019

1. Drupadabai w/o Hanjari Chavan,
Aged 54 years, Occ: Agriculturist,
R/o Govindpur, Post Chikhalwardha,
Tahsil Kelapur, Dist. Yavatmal.
2. Lalita Vijay Patil,
Aged 52 years, Occ: Agriculturist,
R/o Chikhalwardha, Tahsil Ghatanji,
Dist. Yavatmal.
3. Sunita Chandrabhan Lokhande,
Aged 45 years, Occ: Agriculturist,
R/o Chikhalwardha, Tahsil Ghatanji,
Dist. Yavatmal.
4. Kaushal Raju Narayane,
Aged 38 years, Occ: Agriculturist,
R/o Anji, Tahsil Ghatanji,
Dist. Yavatmal.
5. Vanita Kamlesh Kamble
Aged 44 years, Occ: Agriculturist,
R/o Chikhalwardha, Tahsil Ghatanji,
Dist. Yavatmal.
6. Abdul Salim Abdul Jalil,
Aged 55 years, Occ: Agriculturist,
R/o Post Chikhalwardha, Tahsil Kelapur,
Dist. Yavatmal.
7. Rajiya Begum Abdul Jalil,
Aged 70 years, Occ: Agriculturist,
R/o Post Chikhalwardha, Tahsil Kelapur,
Dist. Yavatmal.

.....PETITIONERS
(Orig. Plaintiffs)

...V E R S U S...

1. Fatema Begum Mirza Hamid Beg,
Aged 55 years, Occ: Agriculturist
2. Mirza Niyaz Ali Hamid Beg,
Aged 60 years, Occ: Agriculturist,
3. Mirza Majid Beg Hamid Beg,
Aged 68 years, Occ: Agriculturist,
Respondent Nos.1 to 3 all Resident of
Gadhi Ward, Pandharkawada, Tahsil
Kelapur, Dist. Yavatmal.
4. The State of Maharashtra,
Through its Secretary Surplus Lands
Determination Tribunal, Kelapur Block,
Kelapur, District Yavatmal.
5. Tahsildar, Kelapur, Tahsil Kelapur
District Yavatmal.
6. Syed Abdulla Shah Syed Naimulla
Shah, Age : 57 years, Occ: Agriculturist,
R/o Chikhalwardha, Tahsil Ghatanji,
Dist. Yavatmal.
7. Hanmantu Shamrao Kinake,
Age 50 years, Occ: Agriculturist,
R/o Kurli, Tah. Ghatanji,
Dist. Yavatmal-445306.
8. Vinod Laxmanrao Arewar,
Age : 57 years, Occ: Agriculturist,
R/o 36, "Ganesh Krupa", Waghapur
Road, Yavatmal – 445001.
9. Shankar Yelanna Mangalpawar,
Age 57, Occ: Agriculturist,
R/o Tadsawali, Tah. Ghatani,
Dist. Yavtmal-445306.

10. Hiranman Punjaram Atram,
Age : 58 years, Occ: Agriculturist,
R/o Kurli, Tahsil : Ghatanji,
Dist. Yavatmal – 445306.
11. Manik Laxman Todsam,
Age; 50 years, Occ: Agriculturist
R/o Chikhalwardha, Tahsil Ghatanji,
District Yavatmal. 445306
12. Ulhas Laxman Bhavare,
Age: 63 years, Occ: Agriculturist,
R/o Sarkhani, Nanded. 431804
13. Venutai Ekanath Kambale,
Age: 70 years, Occ: Agriculturist,
R/o Vishvashanti buddha vihar,
Estri Nagar, District Yavatmal. 445001
14. Kisan Laxman Gedam,
Age: 59 years, Occ; Agriculturist,
R/o JESIS colony, Tab. Ghatanji,
Dist. Yavatmal 445301
15. Sheikh Ismail Sheikh Mehboob,
Through his legal heir:
 - 15(i) Naimunisa Sheikh Ismail,
Age: 78 years, Occ: None,
R/o. Chikalwardha Tq. Ghatanji
Dist. Yavatmal.
 - 15(ii) Shainaaz Begum Sheikh Afzal,
Age:55 Years, Occ: Housewife,
R/o; Tatigoda, Dist. Adilabad.
 - 15(iii) Akila Begum Sayyad Akil,
Age: 50 years, Occ: Housewife,
R/o. Chikalwardha Tq. Ghatanji
Dist. Yavatmal.
 - 15(iv) Gulnaaz Begum Abdul Majid,
Age : 44 Years, Occ. Housewife,
R/o. Chikalwardha Tq. Ghatanji
Dist. Yavatmal.

15(v) Sheikh Anwar Sheikh Ismail,
Age : 42 Years, Occ. Housewife,
R/o. Chikalwardha Tq. Ghatanji,
Dist. Yavatmal.

15(vi) Rubina Begum Quazi Zaheeruddin,
Age : 40 Years, Occ. Housewife,
R/o. Ghotkuri, Dist. Adilabad,

...RESPONDENTS
(Orig. Defendants)

WITH
WRIT PETITION NO.7350/2023

1. Ratanchand s/o Gokulchand Sharma,
Aged about 62 years, Occ: Agriculturist,
2. Girdhari s/o Gokulchand Sharma,
Aged about 47 years, Occ: Agriculturist,
(Petitioner no.1 is PoA holder of this petitioner)

Both R/o Dindayal Upadhyaya Ward,
Pandharkawada, District Yavatmal.

....PETITIONERS
(Orig. Appellant)

...V E R S U S...

1. The State of Maharashtra,
Through the Tahsildar (Surplus Lands
Determination Tribunal), Kelapur,
District Yavatmal.
2. Member, Maharashtra Revenue Tribunal,
Nagpur.
3. Fatema Begum s/o Mirza Hamid Baig,
Aged : Major, Occ: Household,
R/o Abdul Kalam Azad Ward,
Pandharkawada, Dist. Yavatmal.
4. Mirza Niyaz Ali Baigh @ Zafar Patel,
Aged about 47 years, Occ: Agriculturist,
R/o Gadiwa, Abdul Kalam Azad Ward,
Pandharkawada, Dist. Yavatmal.

(Respondent No.3 and 4 being legal heirs of Mirza Hamid Baig s/o Abdullah Baig, and Nurunnisa Begum w/o Hamid Baig since both are reported to be dead)

...RESPONDENTS

(Orig. Respondents)

WITH

WRIT PETITION NO.7956/2023

Laxmanrao s/o Mahadeorao Chandrane,
Aged about 72 years, Occu : Agriculture,
R/o. Tadumri, Tah. Kelapur,
Dist.Yavatmal

.....PETITIONERS

...V E R S U S...

1. The State of Maharashtra, through the
Tahsildar (Surplus lands determination
Tribunal), Kelapur, Distt. Yavatmal
2. Fatema Begum D/o Mirza Hamid Baig
Aged -yrs, Occu. Household,
R/o Abdul Kalam Azad Ward,
Pandharkawada, Distt. Yavatmal
3. Mirza Niyaz Ali Baig @ Zafar Patel
Aged 61 yrs, Occu. Agriculturist,
R/o Gadiwa, Abdul Kalam Azad Ward,
Pandharkawada, Distt. Yavatmal

(Respondent No.2 & 3 being legal heirs of Mirza Hamid Baig s/o Abdullah Baig and Nurunnisa Begum W/o Hamid Baig. Since both are reported to be dead)

...RESPONDENTS

WITH

WRIT PETITION NO.7957/2023

1. Deepak s/o Nanaji Chilgalwar,
Age: 58 years, Occu : Agriculture,
2. Sanjay s/o Nanaji Chilgalwar,
Both R/o Chandrashekhar Ward
Pandharkawada, Yavatmal-445302.

3. Smt. Babybai w/o Hanumantrao
Padmigarwar,
Age 68 years, Occ: Housewife,
R/o Bidipeth, Nagpur.
4. Smt. Manda w/o Satwaji Almulwar,
Age 63 years, Occ: Household,
R/o Hiran Chouk, Hingoli,
(That, the original appellant Nanaji
Pochanna Chilgalwar had died on
25.12.2022 and the petitioner Nos.1
to 4 are legal heirs)

.....PETITIONERS

...V E R S U S...

1. The State of Maharashtra, through the
Tahsildar (Surplus lands determination
Tribunal), Kelapur, Distt. Yavatmal
2. Fatema Begum D/o Mirza Hamid Baig
Aged -yrs, Occu. Household,
R/o Abdul Kalam Azad Ward,
Pandharkawada, Distt. Yavatmal
3. Mirza Niyaz Ali Baig @ Zafar Patel
Aged 61 yrs, Occu. Agriculturist,
R/o Gadiwa, Abdul Kalam Azad Ward,
Pandharkawada, Distt. Yavatmal

(Respondent No.2 & 3 being legal heirs
of Mirza Hamid Baig s/o Abdullah Baig
and Nurunnisa Begum W/o Hamid
Baig. Since both are reported to be dead)

...RESPONDENTS

W.P.No.2989/2019

Mr. N. A. Gaikwad, Advocate for petitioner.

Mr. D. P. Mankar, Advocate for respondent Nos. 1 and 2.

Mr. I. D. Thakare, Advocate for respondent Nos. 6 to 15.

Mrs. S. S. Jachak, Addl. G.P. for respondents-State.

W.P.No.7350/2023

Mr. P. P. Kotwal, Advocate for petitioner.

Mr. D. P. Mankar, Advocate for respondent Nos. 3 and 4.

Mrs. S. S. Jachak, Addl. G.P. for respondents-State.

W.P.No.7956/2023

Mr. M. V. Rai, Advocate for petitioner.

Mr. D. P. Mankar, Advocate for respondent Nos. 3 and 4.

Mrs. S. S. Jachak, Addl. G.P. for respondents-State.

W.P.No.7957/2023

Mr. M. V. Rai, Advocate for petitioner.

Mr. D. P. Mankar, Advocate for respondent Nos. 3 and 4.

Mrs. S. S. Jachak, Addl. G.P. for respondents-State.

CORAM:- ANIL L. PANSARE, J.

DATED :- 18.07.2024

ORAL JUDGMENT

Rule. Rule is made returnable forthwith. Heard finally by consent of learned counsel for the parties.

2. The petitioners have purchased the agriculture land owned by the respondent Nos.1 and 2. Admittedly, this transaction has been done in violation to Section 8 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (hereinafter referred to as the, "Act of 1961"). The petitioners are claiming themselves to be bona fide purchasers.

3. The consequences of transfer, effected in violation of Section 8 of the Act, are provided in Section 10 of the Act of 1961.

This issue had arisen in previous round of litigation and this Court, vide order dated 15.10.2010 in the Writ Petition No.2707/1998 and connected writ petitions, remanded the matters back to the Chairman, Surplus Lands Determination Tribunal, Kelapur. While doing so, the Court noted that though the transaction under question has been done in violation of Section 8 and the transfers in favour of the petitioners may be illegal, the scheme of the Act of 1961 does not leave them without any remedy and does not confer any premium upon a land owners (respondent Nos.1, 2 and 3 herein) who have illegally sold their lands to the petitioners. The Court then observed that the scheme is clear and if the land falling within the ceiling limits and left with land owners is sufficient to meet the land declared as surplus, entire retainable land needs to be declared as surplus and delimited as surplus. After this exercise, if still there is any shortfall, the land, only to that extent, can be taken back from the purchasers. The mode and manner in which the same is to be done, is prescribed under Section 10 (1) (b) read with Rule 4 of the Rules of 1975.

4. Accordingly, the Chairman, SLDT, has decided the matter afresh vide order dated 31.12.2016. The relevant portion reads thus:

“5] Therefore considering the guideline given by the Hon'ble MRT, Nagpur in the order dated 09-02- 2015 and as per my considered view, I came to the conclusion that, the original land holder has holds the lands in total 173.01 acres and he is entitle to retain the land up to 54 acre as per ceiling area and therefore 119.01 acres land became surplus and firstly the land of the original land holder has to be taken as a surplus land and if there is any less area then and then the land from the purchasers to be taken proportionately. Hence I am passing die following order

ORDER

- 1) The original land holder holds the land in total 173.01 acres.*
- 2) The land holder is entitled to retain the land up to 54 acre as per ceiling area.*
- 3) The land holder holds the surplus and the land land up to 119.01 acres*
- 4) The said land area 119.01 acre has been delimited and declares as surplus U/s 21 (1) of Maharashtra Agricultural Lands (Ceiling and Holdings] Act, as Amended in 1975.*
- 5) The said area 119.01 acre which is declare as a surplus shall be taken from the possession of the original land holder firstly and the area which is less to complete the area 119.01 acres then the less area shall be taken from the possession of the subsequent purchaser proportionately.*
- 6) Parties to bear their own cost.”*

5. As could be seen, the Tribunal has categorically held that the surplus land, to the extent of 119.01 Acres shall be taken from the original land owners and remaining area, if any, shall then be proportionately taken from the purchasers.

6. In that view of the matter, to my mind, this order was in favor of the petitioners. The petitioners, however, thought it proper to challenge the same but suffered a set back at the hands of the Maharashtra Revenue Tribunal, Nagpur. The net result is, the order of SLDT, Kelapur stood upheld.

7. The counsel for the petitioners submits that they have no grievance against the order passed by Chairman, SLDT, Kelapur. However, the grievance is that the revenue authority, instead of taking possession of the land belonging to the land owners, has allotted the land belonging to the petitioners to the respondent Nos.6 to 15, the beneficiaries of the scheme.

8. If that be so, the petitioners have different remedies to resolve the dispute. They ought to have approached the appropriate authority with a request to execute/implement the order dated 31.12.2016 passed by Chairman, SLDT, Kelapur in true spirit. In fact, the reply filed by the respondent nos.4 and 5, indicate that the respondent No.5 is clear in his mind that the land admeasuring 119.01 Acre, which is declared as surplus, shall be taken from the possession of the original land holder firstly and

the area, if any, remains to complete the area of surplus land, shall be then taken proportionately from the possession of the subsequent purchasers.

9. The counsel appearing for the respondent Nos.6 to 15 submitted that beneficiaries have no concern whether the land allotted to them is taken from the land belonging to the petitioners or respondent Nos.1 to 3 and are ready to take possession of the land that will be allotted to them.

10. In the circumstances, the petitions are disposed of with following directions.

11. The respondent Nos. 4 and 5 shall execute/implement the order dated 31.12.2016, particularly operative clause (5), passed by respondent No.5, meaning thereby that the respondent No.5 shall proceed to take possession of the land admeasuring 119.01 Acres, which is declared surplus, from the possession of respondent Nos.1 to 3, strictly in accordance with law. The respondent No.5 may proceed to take possession of the remaining land, if any, proportionately from the petitioners. This exercise shall be completed within 12 weeks from today.

12. At this stage, learned counsel for the petitioners submit that he has documents (7/12 extract) in possession to indicate that sufficient land is available in the name of respondent Nos.1 to 3. The petitioners shall furnish the details of such lands to the respondent No.5, who shall examine the same and proceed to act in terms of the order passed hereinabove.

13. Till the proceedings are completed in terms of the aforesaid order, the lands allotted to the respondent Nos.6 to 15 out of the lands belonging to the petitioners, shall stand stayed.

Rule is made absolute in the above terms. No order as to costs.

(Anil L. Pansare, J.)

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