



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

52 WRIT PETITION NO. 8764 OF 2021
PRABHAKAR RAMCHANDRA DIXIT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
WITH
CIVIL APPLICATION NO. 17402 OF 2022
IN WP/8764/2021

Mr.G.L. Deshpande, Advocate for the petitioner.
Mr.K.N. Lokhande, AGP for the respondent-State.
Mr.U.B. Bilolikar, Advocate for respondent Nos. 3.1 and 3.2.

CORAM : KISHORE C. SANT, J.
DATE : 18.03.2025

PC :-

01. Heard learned Advocates for the parties. The petitioner, who happens to be Archak of Agnihotra Devasthan, Mudhol, Dist. Nanded, has approached this Court challenging an order passed by the learned Dy. Commissioner (Revenue), Aurangabad, dated 11.03.2013, in Case No. 2012/msk/Bhush/Inam/CR No.104, allowing revision application of respondent No.3.

02. Respondent No.3 had approached the Sub-Divisional Officer, Degloor, praying for giving suit-land to him on Eksala Lawani basis by calling auction. Said application came to be rejected by the learned Sub-Divisional Officer. Respondent No.3, therefore, filed appeal to the learned Additional Collector. The learned Additional Collector also by his judgment and order dated 22.11.2011 dismissed the appeal. Against that respondent No.3 approached the learned Divisional Commissioner. The

learned Divisional Commissioner by the impugned judgment and order allowed the appeal of respondent No.3. The petitioner is, therefore, before this Court.

03. The main grievance of the petitioner is that though he happens to be Archak of the Devsthan, which happens to be owner of the land, still order is passed without hearing him and without making him as a party. He, therefore, submits that the orders are against the principles of natural justice and the principle of *audi alteram partem*. He, therefore, prays for setting aside the impugned order.

04. Learned Advocate Mr. Bilolikar vehemently opposed the petition. He submits that the Authorities have clearly observed that the petitioner is not cultivating land. He is not looking after the Devsthan and is not performing any duties as Archak and it is for this reason he is not concerned with the property. However, it is stated that respondent No.3 was inducted by the petitioner himself as a tenant and later on by the Government for Eksala Lawani basis. He, thus, prays for rejection of the petition.

05. Learned AGP supports the impugned judgment and order.

06. Considering the arguments, one thing is clear that even as per case of respondent No.3, it was the petitioner, who inducted the said respondent in the land as a tenant. Only case is that he is continuously in possession of the land. The fact, thus, remains that the right of the petitioner is accepted at least till 1972. Considering the above, this

Court finds that in view of the aforesaid facts, it was necessary to add the petitioner as a party to the proceedings. All the Authorities have not considered this vital aspect, which goes to the root of the matter. This Court finds that the orders are passed without making the petitioner as necessary party. Therefore, it is a fit case to remand the matter back and to restore the proceeding before the Sub-Divisional Officer, Dharmabad, to add the present petitioner as party and to hear him before passing passing.

07. In view of the above, the writ petition is partly allowed. The learned Sub-Divisional Officer, Dharmabad to decide the proceeding as early as possible and preferably within six months. Needless to mention that there shall be status-quo as regards possession till conclusion of the proceeding before the learned Sub-Divisional Officer, Dharmabad. The writ petition is accordingly disposed off with no order as to costs.

08. In view of disposal of the Writ Petition, pending Civil Application stands disposed off.

[KISHORE C. SANT, J.]