



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
7. WRIT PETITION NO.4850 OF 2022**

Bhanudas s/o. Shetiba Jadhav,
Age : 62 years, Occu: Agriculture,
R/o. Pandharewadi, Tq. Paranda,
Dist. Osmanabad

...Petitioner

VERSUS

1. The Additional Collector,
Osmanabad,
2. Dwarkabai w/o Shibir Shinde,
Age : Major, Occu: Household,
Dist : Osmanabad
At Present Janpir Wasti,
Manjarsumbha Road, Patoda,
Tq. Patoda, Dist. Beed

...Respondents

...

Mr. U. R. Awate i/b. Talekar & Associates.
Mr. N. D. Raje, AGP for Respondent No.1.
Mr.N. L. Jadhav and Mr.R. C. Bramhankar, Advocate for Respondent
No.2.

...

**CORAM : ROHIT W. JOSHI, J.
DATED : 9th JUNE 2025**

JUDGEMENT :-

1. Rule. Rule made returnable forthwith and heard finally with
consent of the parties.
2. The present petitioner has purchased suit land bearing Gut
No.1107 admeasuring 2.18 HR situated at Shelgaon, Tq. Paranda,
Dist. Osmanabad vide registered sale deed dated 02.01.2009 from

late Udasha Dagadu Shinde, father-in-law of respondent no.2.

3. It appears that the suit property was allotted to father-in-law of respondent no.2 under the provisions of Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (for short "Ceiling Act"). Section 29(1) of the Ceiling Act provides that the land allotted to a person under the Ceiling Act cannot be transferred without previous sanction of the District Collector.

4. In the present case, the Competent Authority has granted sanction for transfer of the land vide order dated 20.12.2008. Perusal of the order granting permission for transfer will indicate that the permission was granted for transfer of the property by way of exchange and not by sale deed. The sale deed dated 02.01.2009 executed in favour of the petitioner is thus in breach of the order dated 20.12.2008 granting permission for transfer.

5. Respondent No.2 had therefore filed an application seeking cancellation of the said sale deed executed by her father-in-law in favour of the petitioner. The said application was allowed by respondent no.1/Additional Collector, Osmanabad vide order dated 13.08.2018. Respondent No.1 has held that the sale deed dated 02.01.2008 is executed in favour of the petitioner is in breach of the

permission dated 20.12.2008 and on this count it is ordered that the suit property be forfeited and shall stand vested with the State Government. The said order dated 13.08.2018 came to be challenged by the present petitioner by filing an appeal before the Maharashtra Revenue Tribunal which came to be dismissed vide judgment and order dated 3.02.2022.

6. Perusal of Clause 4 of the order dated 20.12.2008 will demonstrate that permission for transfer of the suit land was granted on the condition that the transfer will be effected by mode of exchange i.e. the subject land will be transferred in lieu of some other land. Clause 4 also uses a word “sale”. However, it is stated that in the event the suit property is sold, the purchaser should also execute sale deed with respect to another immovable property in favour of the vendor/father-in-law of respondent no.2 simultaneously on the same day. Admittedly, this condition is observed in breach in as much as the petitioner has purchased the suit property from father-in-law of respondent no.2 for consideration of Rs. 6,25,000/- and has not sold any land to the father-in-law of respondent no.2. It is also not in dispute that the transaction between the parties is one of sale and not of exchange.

7. Mr. U. R. Awate, the learned Advocate for the petitioner has drawn attention to proviso to Section 29(3) and Section 29(4) of the Ceiling Act to contend that in the event the transferee agrees to pay amount equal to 75% of the market value of the said land based on the valuation as per the Annual Statement of Rates published under the provisions of the Maharashtra Stamp (Determination of True Market Value of Property) Rules, 1995, order of forfeiture under Section 29(1) need not be passed by the Collector. He also draws attention to Section 29(4) (ii) to contend that the said provision is also applicable to transactions and applications made prior to the insertion of proviso to Section 29(3) and Section 29(4). The said provisions are introduced vide Maharashtra Act No. 71 of 2018, which has come into force with effect from 15.12.2018. The learned Advocate for the petitioner contends that in view of the said amendment the order of vesting the land in State Government needs to be set aside or the proceedings are required to be remanded directing the authority to revisit the issue in the light of the amended provisions.

8. The said provisions have been brought on statute book on 15.12.2018. Perusal of the proviso will demonstrate that after

15.12.2018 i.e. the date on which Act No.71 of 2018 was brought into force, the Collector need not pass order of forfeiture of lands that have been transferred in breach of Section 29(1) and 29(2), if the transferee agrees to pay the amount contemplated under proviso to Section 29(3). Section 29(4) provides that on payment of amount contemplated under proviso to Section 29(3), the proceeding shall stand abated if and the Collector shall pass order to that effect if the amount under the proviso is already deposited. In view of the aforesaid, the said provisions cannot come to rescue the petitioner.

9. The learned Advocate for the petitioner has placed reliance on a Division Bench judgment of this Court in Writ Petition No.815 of 2024. In the said matter an application for conversion of land from occupancy class-II to occupancy class-I was rejected vide order dated 25.10.2023. Thereafter, the Ceiling Act was amended and Section 29A was brought on statute book with effect from 19.01.2024. Section 29-A provides that notwithstanding anything contained in Section 29, the Collector may pass order converting status of land granted under Section 27 from Class-II occupancy to Class-I occupancy after a lapse of period of 10 years from the date of grant of such land, subject to condition that there is no breach of any of the

conditions to grant, and if there is any such breach, the same is regularized. With respect, ratio of said judgment will not be applicable to the present case. In the present case, in exercise of powers vested under Section 29(3) land transferred in favour of the petitioner is forfeited and ordered to be vested in State Government on account of breach of condition of the order granting permission to transfer property. The order vesting the land in State Government is passed prior to proviso to Section 29(3) and Section 29(4) coming into force. Perusal of the provisions will indicate that the same do not have retrospective effect. The provisions will apply to pending applications for forfeiture but not to cases where order of forfeiture was passed before the provisions were brought on statute book. The land which is already vested with State Government under Section 29(3) cannot be divested in view of the said provisions.

10. In view of the aforesaid, in my considered opinion the authorities have not committed any error of law warranting interference in exercise of Writ Jurisdiction.

11. The Writ Petition is therefore dismissed. No order as to costs. Rule stands discharged.

[ROHIT W. JOSHI, J.]