



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

WRIT PETITION NO. 9783 OF 2014

Shri Murlidhar Mandir Devasthan Trust,
Pundi, Tq. Ahsti, District Beed,
Through its President,
Chandrakant Shrirang Deshpande,
age: 64 years, Occ. Agri,
R/o. Pundi, Tq. Ashti, Dist. Beed.

...Petitioner

Versus

1. State of Maharashtra
Through the Secretary,
Revenue Department, Mantralaya,
Mumbai – 400 034
2. The Sub-Divisional Officer,
Beed, District Beed
3. The Tahsildar,
Taluka Ashti, District Beed
4. Mahadev Kisan Sumbre,
Died Per Legal Heirs
- 4-A. Sunil S/o. Mahadev Sumbre,
age: 50 years, Occ. Service,
- 4-B. Anil S/o. Mahadev Sumbre,
age: 48 years, Occ. Service,
- 4-C. Dattu S/o. Mahadev Sumbre,
age: 45 years, Occ. Agriculture,
- All R/o. Sarate Wadgaon,
Taluka Ashti, District Beed.
5. Vishnu Kisan Sumbre,

6. Ravindra Kisan Sumbre,

Respondent Nos. 5 & 6 are Major,
Occupation Agriculture, R/o. Wadgaon Sarate,
Taluka Ashti, District Beed.

...Respondents

**WITH
WRIT PETITION NO. 9785 OF 2014**

Shri Murlidhar Mandir Devasthan Trust,
Pundi, Tq. Ahsti, District Beed,
Through its President,
Chandrakant Shrirang Deshpande,
age: 64 years, Occ. Agri,
R/o. Pundi, Tq. Ashti, Dist. Beed.

...Petitioner

Versus

1. State of Maharashtra
Through the Secretary,
Revenue Department, Mantralaya,
Mumbai – 400 034
 2. The Sub-Divisional Officer,
Beed, District Beed
 3. The Tahsildar,
Taluka Ashti, District Beed
 4. Shaikh Yakub Shaikh Mehboob,
Died, Per his Legal Representatives :
 - 4-A. Shaikh Gulab Shaikh Yakub,
age: 70 years, Occ: Agriculture,
 - 4-B. Shaikh Yusuf Shaikh Yakub,
age: 50 years, Occ: Agriculture,
- R. Nos. 4-A & 4-B both R/o. Saratewadgaon,
Taluka Ashti, District Beed.
5. Shaikh Burhan Shaikh Mehboob,

Died, Per his Legal Representatives :

5-A. Shaikh Gani Shaikh Burhan,
age: 52 years, Occ: Business,
R/o. Mali Galli, Ashti, Tal. Ashti,
District Beed.

5-B. Shaikh Shafi Shaikh Burhan,
age: 57 years, Occ: Agriculture,

5-C. Shaikh Nabi Shaikh Burhan,
age: 49 years, Occ: Agriculture,

5-D. Shaikh Akil Shaikh Burhan,
age: 56 years, Occ: Agriculture,

R. Nos. 5-B to 5-D R/o. Saratewadgaon,
Taluka Ashti, District Beed.

6. Shaikh Walimohammed Shaikh Miya,

7. Shaikh Taj Mohammed Shaikh Miya,

8. Shaikh Raj Mohammed Shaikh Miya,

9. Shaikh Wajir Mohammed Shaikh Miya,

10. Shaikh Nazir Mohammed Shaikh Miya,

11. Shaikh Mohammed Shaikh Noor Mohammed,

12. Shaikh Lal Mohammed Shaikh Noor Mohammed,

13. Shaikh Jainoddin Shaikh Noor Mohammed,

14. Shaikh Yunus Shaikh Noor Mohammed,

Respondent Nos. 4 to 14 are all Major.
Occupation Agriculture, R/o. Wadgaon Sarate,
Taluka Ashti, District Beed.

...Respondents

WITH

WRIT PETITION NO. 9786 OF 2014

Shri Murlidhar Mandir Devasthan Trust,
 Pundi, Tq. Ahsti, District Beed,
 Through its President,
 Chandrakant Shrirang Deshpande,
 age: 64 years, Occ: Agri,
 R/o. Pundi, Tq. Ashti, Dist. Beed.

...Petitioner

Versus

1. State of Maharashtra
 Through the Secretary,
 Revenue Department, Mantralaya,
 Mumbai – 400 034
2. The Sub-Divisional Officer,
 Beed, District Beed
3. The Tahsildar,
 Taluka Ashti, District Beed
4. Vasudeo Madhavrao Kulkarni,
 Through General Power Attorney,
 Chandrakant Balasaheb Wadgaonkar (Kulkarni),
 Kada, Taluka Ashti, District Beed.

...Respondents

...

Advocate for Petitioner : Mr. Ram B. Deshpande
 AGP for Respondent Nos. 1 to 3 : Mr. S.S. Dande
 Advocate for Respondent Nos. 5 & 6 in WP/9783/14 : Mr. S.S. Jadhavar
 Advocate for Respondent Nos. 4A & 4B in WP/9785/14 : Mr. V. D.
 Salunke

...

CORAM : ABHAY J. MANTRI, J.
DATE : 08TH DECEMBER, 2025

ORAL JUDGMENT :

1. Heard. **Rule.** Rule is made returnable forthwith and heard finally by the consent of the learned Advocates for the respective parties at the admission stage.

2. The issues that arise in all three petitions are common. In all three petitions, the order dated 03.03.2014, passed by the Hon'ble Minister (Minister for States (Revenue)), Mantralaya, Mumbai (for short, the '*Hon'ble Minister*'), is under challenge. Only the parties are different. Therefore, all these matters are taken up together for disposal. For the sake of convenience, I would like to mention the facts in *Writ Petition No. 9783/2014*.

3. By this petition, the petitioner/Trust is challenging the order dated 03.03.2014, passed by the Hon'ble Minister in DEV 2013/Case No. 294/L-4 under the provisions of 257 of the Maharashtra Land Revenue Code, 1966, (for short- the '*M.L.R. Code*') has preferred this petition.

4. The petitioner, a public trust, filed an application before the learned SDO, contending that respondents have no concern with the said trust, nor are they the trustees or Archak of the said trust. Therefore, the petitioner urged for deleting the names of the Archak '*Prabhakar Deshpande*', who died on 21.05.1992, from the ownership column and recording the name of the trust in the ownership column in respect of lands Survey Nos. 7, 24, 32 and 99 of the Village Wadgaon (Sarate), Tq. Ashti, Dist. Beed.

5. The learned SDO, after considering the circular of the year 1975, has rightly passed the order and deleted the name of the Archak and other names from the 7/12 extract of the Survey Nos. 7, 24, 32 and 99 and forfeited the said lands and directed the Tahsildar to auction the said lands every year. Being aggrieved by the said order, respondent nos. 4 to 6 have preferred an Appeal before the Additional Collector and thereafter filed a Revision before the Commissioner, who dismissed the Appeal and the Revision. Being aggrieved by the same, respondent nos. 4 to 6 have preferred an Appeal before the Hon'ble Minister, which came to be allowed. Therefore, the petitioner, who assails the said order, has filed this petition.

6. Learned Advocate Mr. Deshpande for the petitioner contended that the Minister has exceeded his jurisdiction while exercising the powers under the provisions of the M.L.R. Code and erred in setting aside the order passed by the learned SDO and confirmed by the Additional Collector and Additional Commissioner. Therefore, the order passed by the learned Minister is illegal and perverse. He further contended that the Trust owns the disputed lands. As per Section 102-A (c) of the Hyderabad Tenancy and Agricultural Lands Act, those lands are exempted from the application of the provisions of the said Act and, therefore, the observation of the Hon'ble Minister in clause (iii) of the

impugned order is contrary to the said provisions. This indicates that the Minister has deemed the respondent to be a tenant and, accordingly, passed the order. In fact, the Hon'ble Minister had no jurisdiction to decide the alleged tenancy rights. Hence, he has urged that the order be set aside. He further argued that the respondents have no right to continue their names in the 7/12 extract, as no mutation entry has been recorded in that regard, and, therefore, the appearance of their names in the 'other rights' of the 7/12 extract is illegal. Accordingly, he urged that it be set aside.

7. He further relied on the circular of the year 2010 and attempted to submit that, based on the said circular, respondents cannot get the tenancy rights in the lands in question. Accordingly, he urged that the petition be allowed.

8. *On the contrary*, learned Advocate Mr. Jadhavar for respondents No. 5 and 6 has taken me through the application filed by the petitioner before the SDO at page nos. 21 and 22 and strenuously argued that the petitioner has not made respondents as a party to the petition nor made any prayer against them but the petitioner has filed the petition to delete the name of Archak '*Prabhakar Deshpande*' from the disputed land in question and, therefore, no opportunity was given to the respondents to contest the matter and thereby, violated principle

of natural justice. Similarly, he pointed out the order passed by the learned SDO. He submitted that the learned SDO has passed the order beyond the pleadings in the petition and the petitioner's prayer, and therefore, the said order cannot be sustained in law. Accordingly, he urged dismissal of the petition.

9. It is pertinent to note that when the said facts are brought to the notice of the learned Advocate for the petitioner, at that time, the learned Advocate for the petitioner contended that the petitioner is ready to make them a party to the petition before the learned SDO. As such, he urged setting aside the orders passed by the 'Hon'ble Minister' as well as the authorities and grant the petitioner liberty to add the respondents as a party to the petition and also file an application for amendment in that regard in accordance with law pursuant to the addition of the respondents as a party to the proceeding.

10. In response to the same, learned Advocate Shri. Jadhavar and Senior Counsel Shri. Salunke in WP/9785/14 for respondents Nos. 4A & 4B have not objected to the quashing of the orders or to remanding the matter to the authorities. Still, they have only submitted that the petitioner should apply to the concerned authority, so that the respondents will have the opportunity to contest the said application before the authority.

11. In view of the above facts and submissions, it emerges that the petitioner has not made the respondents a party to the proceeding before the SDO. In my view, it would be appropriate to make the respondents parties to the proceedings, as the petitioner is seeking relief against them. If the respondents are made parties, it would not prejudice the rights of the parties in the proceedings. On the contrary, the dispute between the parties can be determined on the basis of the pleadings of the respective parties.

12. Having considered the above facts without going into the merits of the matter, in my view, it would be appropriate to remand the matter by setting aside the order passed by the 'Hon'ble Minister' as well as the concerned authorities by granting liberty to the petitioner to add the respondents as a party to the petition before the SDO and file necessary amendment application pursuant to the addition of them in the application as a party in accordance with law.

13. Hence, the Writ Petition is partly allowed, and the orders passed by the learned Minister and the concerned authorities are quashed and set aside. The matter is remanded to the learned SDO, with liberty to add respondents as parties and to file the necessary application for amendment in accordance with the law, if so he desires. The rule is made partly absolute accordingly.

14. Needless to clarify that the concerned authority shall proceed with the petition as expeditiously as possible and dispose of it within a period of six months from the receipt of the order of this Court.

(ABHAY J. MANTRI, J.)

SPC