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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4303 OF 2016

Smt. Jayashri Narayanrao Mane and Ors. .. Petitioners
Vs.
The Collector, Solapur and Ors. .. Respondents

Ms. Indrayani Koparkar, i/by Ms. Kshitija G. Sarangi, Advocates for the Petitioners.

Mr. N.C. Walimbe, Additional Government Pleader with Mr. N.K. Rajpurohit, Assistant Government Pleader for Respondent Nos.1, 2, 3 and 6.

**CORAM: A.S. CHANDURKAR &
M.M. SATHAYE, JJ.**

DATE : 4TH APRIL 2025

P.C. :

1. Heard learned counsel for the parties.
2. By this petition under Article 226 of the Constitution of India, the original Petitioner – Shri. Narayan Nanasaheb Mane-Deshmukh is seeking directions to the Respondents to return the agricultural land which is in possession of the Respondent No.5 (Maharashtra State Farming Co-Op. Society Ltd) as a return of land, under Government Resolution (GR) dated 04.05.2012 read with provisions of Section 28-1AA (3) of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (the said Act, 1961). Under the said GR and said provision of law, the original agriculturist-lessor (*Khandkari*) who had leased the land to Respondent No.5, were given opportunity to get back their lands. The said GR and guidelines issued thereunder provides extension of time from 02.02.2012 till 01.05.2012 for applying under the said

provision for return of land. The Petitioner Narayan had applied for such return belatedly on 09.11.2012 and as such, there is a delay of about six months in making application.

3. Rule was granted thereby admitting the petition on 05.07.2019. During pendency of the petition, the Petitioner died and his legal heirs are brought on record who are presently prosecuting the matter.

4. It is seen that under communication dated 23.01.2016, the present Petitioner No.1-C was informed by Respondent No. 4 [Sub Divisional Officer (SDO), Malshiras Division, Akulj] that since the application made by the Petitioner Narayan was belated, the Petitioner's request for return of land cannot be processed and considered. Hence petition was filed.

5. On 20.02.2025, the Petitioners relied upon the order dated 27.11.2017 passed in Writ Petition No.2609 of 2017 in the case of Vitthal Mahadeo Shinde Vs. State of Maharashtra, wherein directions were given by this Court in similar belated application for return of land. Therefore, the Additional Government Pleader was directed to find out how the belated application in that case was decided by the Respondent authority. Pursuant to the said directions, on 04.03.2025, the learned Additional Government Pleader submitted on instructions that the similar belated application preferred by that Petitioner has been finally decided favorably by allotting/returning the land in his favour.

6. Perusal of the affidavit-in-reply dated 01.04.2017 filed by the concerned SDO shows that a stand is taken that original agriculturist (Khandkari) is one Mr. Hanmantrao Bajirao Mane-Deshmukh who was brother of the Petitioner Narayan. A further stand is taken that the

branch of said Hanmantrao has been allotted/returned agricultural land under the said provision. It is submitted that the concerned committee head / SDO had recommended Petitioner's proposal to the Collector which was beyond limitation and therefore explanation was asked.

7. We note that the Petitioner's application dated 09.11.2012 mentioned a decision by the Hon'ble Supreme Court in a partition suit between the branches of the Petitioner and his brother wherein, according to the Petitioner, a compromise took place in 1981, wherein the branch of the Petitioner has been allotted half share. There is reference of the Supreme Court case number in the application of the Petitioner, however, it appears that the copy of the Supreme Court order or consent terms was not annexed to the application. It is Petitioners' case that the branch of Narayan was not considered while allotting / returning land at the behest of his brother, whose branch has received part portion. The Petitioner has produced in this petition, a copy of the Supreme Court order dated 01.10.1981 in Civil Appeal No.1450 of 1970 along with the copy of the consent terms. We also note that in the report of committee head No.2 / SDO, Malshiras Sub Division, Akluj, it was informed to the Collector, about the objection of belated application, that the demand of the Petitioner for return of land is not a new demand and arises out of old claim made by legal heirs of common ancestor and therefore, the Petitioner is eligible to additional return of land to the extent of 18 acre each to the branches of (I) Tarabai Nanasaheb Mane-Deshmukh, (ii) Narayanrao Nanasaheb Mane-Deshmukh (Petitioner) and (iii) Krushnarav (Kisan) Nanasaheb Mane-Deshmukh.

8. Presently, out of these three persons, only the Petitioner

Narayanrao Nanasaheb Mane-Deshmukh is before us. Even original application dated 09.11.2012 is on behalf of only Narayanrao Nanasaheb Mane-Deshmukh. Hence, we are restricting to our consideration to the claim of return of 18 acre of land to the Petitioner.

9. Considering that in a similarly situated application by Vitthal Mahadev Shinde (belated) was considered on merits and land was allotted (returned) of which order dated 11.09.2024 is produced before us, we are of the opinion that the case of the Petitioner should also be considered afresh. Hence, the petition is disposed of by passing following order:

- a. The Respondent No.1 Collector, Solapur or such other appropriate sub-ordinate authority of the Respondent/State who is competent to decide the Petitioner's application for return of the lands under provisions of Government Resolution (GR) dated 04.05.2012 read with provisions of Section 28-1AA (3) of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, is directed to consider the Petitioner's application dated 09.11.2012 afresh in accordance with law and in the light of the order of the Supreme Court and compromise thereunder in Petitioner's family and further in view of similarly situated belated case considered by the Respondents. The consideration shall be restricted only as regards the application of Narayanrao Nanasaheb Mane-Deshmukh in respect of 18 acre of land.
- b. Petitioners are at liberty to file documents in support of their case within a period of 4 weeks from today.
- c. Concerned authority to hear the Petitioners or their

representative and decide the Petitioner's application within a period of eight weeks thereafter. Decision be taken by a reasoned order and communicated to the Petitioners.

d. Rule is made absolute and the petition is disposed of in above terms. No order as to costs.

10. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)

(A.S. CHANDURKAR, J.)