

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9509 OF 2023

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Sudhakar Balkrishna Deshpande
Since Deceased Through Legal Heirs
Kusum Sudhakar Deshpande & Ors. ... Petitioners
V/s.
Sub-Divisional Officer & Ors. ... Respondents

Mr. Drupad S. Patil with Srushti Chalke for the petitioners.

Ms. V. S. Nimbalkar, AGP for the State-respondent Nos.1 and 2.

Mr. Nitin P. Deshpande for respondent No.3.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 31, 2025

P.C.:

1. The challenge in this writ petition is directed against the order passed by the Sub-Divisional Officer, Malshiras, Solapur, which rejected the petitioners' application filed under Section 28-1AA of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 for restoration of land. The grounds relied upon for such rejection were that the petitioners' application was purportedly filed beyond the 90-day period as prescribed by the proviso to Sub-section (3) of Section 28-1AA of the Act, 1961. It is respectfully submitted that the petitioners have contended that the registered lease deed pertaining to the lands described in the application—

namely, Gat No. 731 at Purandavade, Gat No. 217 at Sadashinagar, and Gat No. 148 at Yeliv—was originally held by the Deshpande family. The same family, circa 1940, executed a registered lease deed in favour of M/s. Chitale Agro India Pvt. Ltd. It is further noted for clarity that the historical chain of title is germane to establishing the petitioners' rightful claim.

2. It is recorded that the lands were re-granted in the petitioners' favour on 2 July 1985, thereby giving rise to a direct legal interest which underpins their subsequent application for restoration.

3. In due course, it is relevant to note that Section 28-1AA of the Act, 1961 was amended, thereby vesting in the original landlord the right to seek restoration of land, subject to the fulfillment of the stipulated conditions contained therein. Consequently, the petitioners, acting in accordance with the amended statutory provisions, filed an application for restoration of the land on 17 April 2012. Initially, the said application was placed in abeyance due to an inter-positional dispute between the petitioners and the lessee. It is uncontested that this dispute has been conclusively resolved in favour of the petitioners, with the lessee's position having been thereby diminished, and the petitioners' rights as owners of the property duly acknowledged.

4. On 22 February 2021, the petitioners submitted a reminder application, asserting that their original application dated 17 April 2012 had yet to be adjudicated upon. It is to be observed that the application dated 22 February 2021 was merely a reminder, and

did not constitute a fresh or original application. Notwithstanding, the Sub-Divisional Officer, in the impugned order, treated this reminder as if it were the original application, and accordingly, rejected it on the grounds prescribed in the proviso to Sub-section (3) of Section 28-1AA of the Act, 1961.

5. A meticulous examination of the record reveals that the petitioners duly filed an application for restoration of land within the statutory 90-day period, specifically on 17 April 2012. The subsequent reminder dated 22 February 2021 was simply an ancillary communication to expedite adjudication of the earlier application, and therefore, it is legally impermissible to construe the reminder as constituting a new or separate application subject to the limitations prescribed by the Act.

6. In light of the foregoing observations and after careful consideration of the applicable legal provisions and principles of natural justice, the impugned order is hereby held to be unsustainable.

7. Consequently, the Court directs that the following orders be issued:

(i) The impugned order dated 10 April 2023, passed by the Sub-Divisional Officer, Malshiras Division, Akulj, District Solapur, is hereby quashed and set aside.

(ii) The petitioners' application dated 17 April 2012 is restored on the file of the Sub-Divisional Officer, Malshiras Division, Akulj, District Solapur. The said authority is directed to redress the petitioners' application afresh,

ensuring that both parties are accorded a full and fair opportunity to be heard. It is further directed that the adjudication of the application be completed within a period of three months from the date of this order.

8. In view of the above orders and findings, the writ petition is hereby disposed of in the aforementioned terms.

9. It is expressly clarified that the authority, when reconsidering the petitioners' application, shall decide the matter solely on the merits of the case and shall remain uninfluenced by any observations contained in this judgment.

(AMIT BORKAR, J.)