

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1267 OF 2025

Shri. Mohmad Daus Sahebrao & Ors.

....*Petitioners*

: *Versus* :

State of Maharashtra & Ors.

....*Respondents*

Dr. Ranjeet Thorat, Senior Advocate with *Mr. Kishor Patil, Mr. Amol Mhatre i/by. Mr. Abhijit Patil, for the Petitioners.*

Mrs. Savita A. Prabhune, AGP for the Respondent Nos.1 to 4-State.

CORAM : SANDEEP V. MARNE, J.

Date : 24 January 2025.

P.C. :

1) Heard Mr. Thorat, learned Senior Advocate appearing for the Petitioners and Ms. Prabhune, the learned AGP appearing for State.

2) The challenge in the present petition is to the order dated 22 January 2025 passed by the Additional Commissioner, Konkan Division, setting aside permission dated 3 October 2024 issued by the Collector, Palghar and consequent mutation entry no.1623 effected in Petitioners' name. On 3 October 2024, the Collector granted permission for purchase of tribal land by non-tribals/Petitioners subject to various terms and conditions. The Collector's permission dated 3 October 2024 was premised on prior approval granted by the State Government on 28 August 2024. The State Government granted prior approval under

the provisions of Clause-(b) of sub-section (1) of Section 36A of the Maharashtra Land Revenue Code subject to the Collector fixing the purchase price of the tribal land. It appears that after receipt of approval of the State Government on 28 August 2024, the Collector sought valuation report from the Collector of Stamps, Palghar for undertaking the exercise of determining purchase price. The Collector of Stamps, Palghar gave his valuation report dated 30 October 2023 determining the valuation of the land at Rs.1,39,27,800/- based on the ready reckon rates for 2023-24.

3) After taking into consideration the valuation report submitted by the Collector of Stamps, Palghar and after satisfying himself that the Petitioners have paid higher consideration to the Tribals than Rs.1,39,27,800/- determined by the Collector of Stamps, the District Collector proceeded to issue permission under the provisions of Section 31A of the Code on 3 October 2024.

4) The Tribals are not aggrieved by the Collector's order dated 3 October 2024. The Tribals do not contend that they have received lesser price than the market rate in respect of the tribal land. It appears the Tribals had executed Agreement for Sale dated 23 December 2009 in favour of Respondent No.5. Therefore, Respondent No.5 got aggrieved by Collector's permission dated 3 October 2024 and filed Appeal before the Additional Divisional Commissioner under the provisions of Section 247 of the Code. It appears that on the strength of Agreement for Sale dated 23 December 2009, the Collector had sent proposal for grant of permission under Section 36A to the State Government on 7 August 2014. Apparently, in that proposal, the valuation of the land as per the ready-reckoner rates of 2014 was indicated at Rs.4,750/- per sq.mtr. However, the said proposal came to be returned by the State Government on 26 September 2019 for being

submitted afresh. During pendency of the said remanded proposal before the District Collector, Petitioners have filed their own application for grant of permission under Section 36A of the Code and secured permission from the Collector on 3 October 2024.

5) The solitary reason on which the Additional Divisional Commissioner has apparently set aside the Collector's permission dated 3 October 2024 is reflection of valuation of Rs.4,750/- in respect of the tribal land in the year 2014 as against indication of substantially lower valuation of Rs.1,670/- per sq.mtr by the Collector of Stamps, Palghar based on ready-reckoner for 2023-24. The Additional Divisional Commissioner has apparently found it difficult to digest the fact that the valuation in respect of the tribal land would reduce from Rs.4,750/- per sq.mtr to Rs.1,670/- per sq.mtr after passage of 10 years.

6) Mr.Thorat, would invite my attention to the valuation report of the Collector of Stamps, Palghar dated 30 October 2023 and would submit that the valuation is done by taking into consideration the ready reckoner rates for 2023-24. As of now, the proposal sent by the Collector on 7 August 2014 in respect of Respondent No.5 reflecting valuation as Rs.4,750/- per sq.mtrs is not placed on record. However, since the Collector has acted upon the valuation done by the Collector of Stamps on 30 October 2023, it becomes *prima-facie* difficult to believe that there can be any error on the part of the Collector in accepting valuation of land at Rs.1,39,27,800/-. Curiously, the tribals are not aggrieved by the valuation and it is Respondent No.5, who is merely armed with Agreement for Sale of 23 December 2009, and who is attempting to scuttle the purchase transaction in favour of the Petitioners.

7) Since the valuation accepted by the Collector is the only issue involved in the present petition and since the same is the solitary reason why the Additional Divisional Commissioner thought it appropriate to exercise its appellate jurisdiction, in my view, it would be appropriate to direct the Collector of Stamps, Palghar to submit a fresh valuation in respect of the Tribal land for perusal of this Court. Accordingly, apart from the Respondents filing affidavit-in-reply to the present petition, the Collector of Stamps, Palghar shall place before the Court, valuation in respect of the tribal land as on 30 October 2023 before the next date of hearing.

8) Issue notices to the Respondents returnable on 24 February 2025. Mr. Patil waives service of notice on behalf of Respondent Nos.1 to 4. In addition to Court notice, private service is permitted.

9) Till the next date of hearing, the impugned order dated 22 January 2025 shall remain stayed subject to the condition that Petitioner shall not create any third party rights nor shall part with possession of the tribal land in question.

10) List the petition on 24 February 2025.

NEETA
SHAILESH
SAWANT

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2025.01.28
14:41:11
+0530

[SANDEEP V. MARNE, J.]