



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO.2083/2025

Waman Yadav Wankhade .Vs. Shankar Yadavrao Borde and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. A. Chaudhari, Advocate for petitioner.
Mr. H. R. Dhumale, A.G.P. for respondent Nos.2.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 17, 2025

Heard.

2. The State Government had allotted land to the petitioner ex-Serviceman. The petitioner approached Sub Divisional Officer, Buldhana seeking permission to sell the land. It appears that the Sub Divisional Officer thought it proper to refer the matter to Tahsildar for inquiry, who visited the spot, to find that respondent No.1 was cultivating the land. Accordingly, the Tahsildar noted that the petitioner has breached the conditions of allotment. At the same time, respondent No.1 stated before Tahsildar that the petitioner has agreed to sell the land to him. Tahsildar, however, was of the opinion that the land should be forfeited because the petitioner committed breach of the allotment. Accordingly, he submitted report to the Sub Divisional Officer, Mehkar who, in turn, passed the order of forfeiture of the land to the State Government.

3. The said order was challenged by respondent No.1 (and not by the petitioner) before the Maharashtra Revenue Tribunal, Nagpur (Tribunal) being APL/Ceiling/BUL-06/2023. The petitioner did not appear though served. The Tribunal by the impugned judgment dated 28.06.2024, noted fault in the order passed by respondent No.2 on the ground that he ignored the provisions of Section 29 of Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (For short the, "Act of 1961"). Sub Section (3) of Section 29 is relevant, which reads thus:

“29. Restriction on transfer or division of land granted under section 28.—

(1) and (2)

(3) Any transfer or division of land, and any acquisition thereof, in contravention of sub-section (1) or sub-section (2) shall be invalid; and as a penalty therefor, any right, title and interest of the transferor and transferee in or in relation to such land shall, after giving him an opportunity to show cause, be forfeited by the Collector and shall without further assurance vest in the State Government.

Provided that, after the commencement of the Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 2018 (Mah. LXXI of 2018), no such land shall be forfeited by the Collector for contravention of the provisions of sub-section (1) of sub-section (2), as the case may be, if the transferor, transferee or any other person interested in such land makes the payment of an amount of seventy five per cent., of the market value of such land ascertained as per the current Annual Statement of Rates published under the provisions of the Maharashtra Stamp (Determination of True Market Value of Property) Rules, 1995.”

4. As could be seen, after commencement of the Maharashtra Agricultural Lands (Ceiling on Holdings) (Amendment) Act, 2018, no such land could be forfeited by collector for contravention of provisions of Sub Sections (1) or (2), if the transferer or transferee or any other person interested in such land makes payment of 75% of the market value.

5. Accordingly, the Tribunal directed the Sub Divisional Officer to calculate the market value and further directed to allot land to respondent No.1 upon depositing the amount in terms of Section 29 of the Act of 1961.

6. The petitioner, who did not challenge the order of forfeiture and who did not appear before the Tribunal, has now filed writ petition challenging the impugned judgment. The question is whether the petitioner has locus to challenge the impugned judgment. The answer, to my mind, would be in the negative for the simple reason that petitioner did not challenge the order of forfeiture of his land. In other words, he was convinced with the said order.

That being so, if the Tribunal has now directed respondent No.2 to allot the land to respondent No.1, the petitioner cannot challenge the said finding.

7. Learned counsel for the petitioner submits that petitioner has now decided to file appeal against the order of forfeiture of his land and has accordingly moved before the Tribunal with an application to condone the delay in filing the appeal.

8. This act, on the face of record, appears to be a clear after thought. When inquired as to why was appeal not filed against the order dated 28.06.2024, the petitioner submits that his mother was not keeping well and he was required to look after her. When further inquired, he submits that his mother expired on 16.09.2024. The application seeking condonation of delay, however, has been filed in March, 2025.

9. In the circumstance, even if it is to be presumed that the petitioner could not approach the Tribunal because of health issues of his mother, there appears no reason why should he not file appeal within reasonable period from 16.09.2024. Thus, it is evident that an attempt is being made to get the order of the Tribunal neutralized, which has been passed after giving opportunity to the petitioner to appear and put forth his say.

10. The petitioner having failed to appear before the Tribunal and further having failed to take appropriate steps against the order of forfeiture within reasonable time, to my mind, the petitioner will not be entitled to challenge the order passed by the Tribunal. The petition is accordingly dismissed. No order as to costs.

(Anil L. Pansare, J.)