



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5148 OF 2024

Mukund Shivgir Giri and Another

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

WITH
CIVIL APPLICATION NO. 6173 OF 2024
IN
WRIT PETITION NO. 5148 OF 2024
WITH
CIVIL APPLICATION NO. 6174 OF 2024
IN
WRIT PETITION NO. 5148 OF 2024

- Mr. Wakure Sanjay A, Advocate for the Petitioners.
- Mr. S. D. Ghayal, Addl.GP for Respondent – State.
- Mr. Atharva Dilip Khedkar h/f Mr. A. D. Khot, Advocate for Intervener.

CORAM : AJIT B. KADETHANKAR, J.

DATE : MARCH 10, 2026

P. C. :

1. Mr. Wakure, learned counsel for the petitioners would submit that the subject matter of the petition is the general publication published by the Tahsildar, Palam on 16th May 2024 (page No.81). This publication was calling proposals from the general public for harvesting the subject matter land on an yearly basis and, as such it was meant for the harvesting season of 2024-2025. Mr. Wakure

further submits that since after filing this writ petition, the Tahsildar Palam withdrew the said notice. He would submit that the said publication is not acted upon by the Tahsildar.

2. His further contention is that his application / claim for grant of Virasat under the provisions Hyderabad Atiyat Inquiries Act, 1952, is pending before the Sub Divisional Officer (Atiyat), Parbhani. Mr. Wakure further submits that during the pendency of this petition, the authorities have obtained forceful possession from the petitioners and have even harvested sugarcane on the said field. He would further submit that since the proceedings for grant of Virasat have been filed by the petitioners before the Competent Authority, the petition be disposed of with a direction to the Competent Authority to conclude the enquiry as to whether the petitioners are entitled for the Virast rights pertaining to the subject matter land situated at Survey No.69 Muje Kaudgaon, Taluka Gangakhed.

3. Mr. Khedkar, learned counsel submits that he has filed intervention application for the reason that his client i.e. the Someshwar Mahadev Mandir, Someshwar Devsthan, has a right over the subject matter and behind his back the claim of the petitioners cannot be decided. Mr. Wakure, learned counsel for the petitioners

would submit that the status of the intervener, as also the incorporation of the name of the trust, is also under challenge in the appropriate authority at the behest of the petitioners.

4. Mr. Wakure, learned counsel for the petitioners would submit that the Virasat proceedings have been filed with a delay of more than 3 years. In view of this, Mr. Ghayal, learned AGP submits that in such an event the power to condone delay vests with the Additional Divisional Commissioner.

5. In the light of the statement made by Mr. Wakure, learned counsel for the petitioners, I deem it appropriate to dispose the writ petition with following directions :

A) The delay proceedings filed by the petitioner in respect of grant of Virasat rights, be kept before the concerned authority, and such authority shall decide the delay application within a period of three months. While deciding the delay, the authority shall take into consideration the long-standing possession of the petitioners from his forefathers on the subject matter land.

B) An opportunity of hearing be given to the petitioner

in the delay condonation proceedings.

- C) In the event of condonation of delay, respondent No.3 – SDO shall decide the Virasat proceedings on its own merit, within a period of one year thereafter.
- D) The writ petition is disposed of accordingly.

6. Civil Applications, if any, also stands disposed of in view of disposal of the writ petition.

(AJIT B. KADETHANKAR, J.)