

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4026/2023

Jairam s/o Doma Funde and others Vs. State of Maharashtra and others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.M. Bahirwar, Adv. h/f Mr. I.S. Charlewar, Advocate for petitioners
Mrs. M.A. Barabde, AGP for Respondent / State

CORAM: AVINASH G. GHAROTE, J.

DATED : 3rd JULY, 2023

Heard Mr. Bahirwar, learned counsel h/f
Mr. Charlewar, learned counsel for the petitioners.

2. The petitioners claim to be the legal heirs of Jairam Doma Funde, in whose favour Ramchandra Dubey, the owner of Gat Nos.435/1 and 435/2, jointly admeasuring 0.43 H.R. has executed a registered sale deed on 01/7/1965, however, no mutation entry was effected. On account of ceiling proceedings, the land held by Ramchandra Dubey was declared as surplus which included the land of Gat Nos.435/1 and 435/2. Part of the surplus land was allotted by the Tahsildar to third parties and when the allottees tried to claim the land, proceedings were initiated by the present petitioners, who are the legal heirs of Jairam Doma Funde. The learned Tahsildar by order dated 10/06/2016 (page 18) found that the sale deed in favour of the predecessor of the petitioners, was earlier in point of time and therefore,

the allottees did not have right. An appeal there-against before the Sub-Divisional Officer came to be allowed by order dated 27/4/2018 (Page 29). Further appeal there-against by the petitioners before the Additional Collector came to be dismissed on 31/12/2020 (page 34) and revision before the Additional Commissioner also came to be dismissed by the order 18/5/2023 (page 46).

3. It is contended, that since the title to the land became perfected on account of the sale deed dated 01/07/1965, there could not have been any declaration of the land being surplus and therefore, consequent allotment, considering which, issue notice for final disposal, returnable on 24th July, 2023.

4. Ms. Barabde, learned Assistant Government Pleader waives notice for respondent Nos.1 to 5.

5. The petitioners shall serve the respondent Nos.6 to 10 by all modes permissible in law, including hamdast by the returnable date.

6. Till the returnable date, there shall be ad-interim stay in terms of prayer clause (iii).

JUDGE