

BEFORE THE MEMBER (SHRI V.K. KADAM), MAHARASHTRA
REVENUE TRIBUNAL, AURANGABAD

Revision No. 66/B/2017/A

1. Rasheed Khan Yusuf Khan **Revision Petitioners**
Age -50 years, Occu- Agril & Business,
R/o. Begumpura, Aurangabad
2. Babar Khan Yusuf Khan
Age- 44 years, Occu- Business,
R/o. Sidheshwar Colony, Jinsi,
Aurangabad
3. Ayub Khan Yusuf Khan
Age -40 years, Occu- Business,
R/o. as above

V/s.

Abdulla Khan Hayat Khan (deceased) **Respondents**
through his L.R's

1. Majid Khan Abdulla Khan
Age- Major, Occu-Agri,
R/o. Silk Milk Colony, Aurangabad
Tq. & Dist. Aurangabad
2. Rabeyabe Shaikh Kutubuddin
Age – Major, Occu- Household,
Tq. & Dist. Aurangabad
3. Umar Khan Abdulla Khan
Age- Major, Occu- Agil,
R/o. Kokanwadi near Masjid,
Aurangabad Tq. & Dist. Aurangabad

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4. Safiyabee W/o. Shaikh Mohammad
Age- Major, Occu- Agri
R/o. Dalalwadi, Aurangabad
5. Shahjadi Begum W/o. Shaikh Yakub
Age- Major, Occu- Household
R/o. as above
6. Khatija Begum W/o. Shaikh Gaffar
Age- Major, Occu-Agril
R/o. Buddi Line,
Tq. & Dist. Aurangabad
7. Jaheda Begum W/o. Shaikh Karimuddin
Age- Major, Occu- Household
R/o. Abrar Colony, Paithan Road,
Aurangabad Tq. & Dist. Aurangabad
8. Aziz Khan Abdulla Khan (deceased)
Through his L.R's
 - 8-A) Mariyambe W/o. Aziz Khan
Age- Major, Occu- Household,
R/o. Kaisar Colony, Aurangabad
Tq. & Dist. Aurangabad
 - 8-B) Salma Begum W/o. Sarvar Ullah Khan
Age-Major , Occu- Household
R/o. as above
 - 8-C) Hasina Begum W/o. Anwar Ullah Khan
Age-Major , Occu- Household
R/o. as above

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- 8-D) Rafiq Khan Aziz Khan
Age-Major , Occu- Agril,
R/o. Jahagirdar Colony,
Aurangbad Tq. & Dist. Aurangabad
- 8-E) Kalim Khan Aziz Khan
Age-Major , Occu- Agril,
R/o. Jahagirdar Colony,
Aurangbad Tq. & Dist. Aurangabad
- 8-F) Rukhiya Begum W/o. Mukhib Khan
Age-Major , Occu- Agril,
R/o. Katkat Gate, Aurangabad
Tq. & Dist. Aurangabad
- 8-G) Ruksana Begum W/o. Habib Khan
Age-Major , Occu- Household
R/o. Abrar Colony, Paithan Road,
Aurangabad
Tq. & Dist. Aurangabad
- 8-H) Fauziya Begum W/o. Feroz Khan
Age-Major , Occu- Household
R/o. City Colony, Aurangabad
Tq. & Dist. Aurangabad
9. Hamid Khan Abdulla Khan (deceased)
Through his L.R's
- 9-A) Sayara Begum W/o. Hamid Khan
Age-Major, Occu- Household
R/o. Sadat Nagar, Paithan Road,
Aurangabad
Tq. & Dist. Aurangabad.

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- 9-B) Sakira Begum W/o. Shaikh Khalid
Age-Major, Occu- Household
R/o. Buddi Line, Aurangabad
Tq. & Dist. Aurangabad.
- 9-C) Jakira Begum W/o. Shaikh Halim
Age-Major, Occu- Household
R/o. Silk Milk, Aurangabad
Tq. & Dist. Aurangabad.
- 9-D) Nasera Begum W/o. Shaikh Jawed
Age-Major, Occu- Household
R/o. Mominpura ,Aurangabad
Tq. & Dist. Aurangabad.
- 9-E) Rafad Begum W/o. Shaikh Azhar
Age-Major, Occu- Agril
R/o. Nutan Colony, Aurangabad
Tq. & Dist. Aurangabad.
- 9-F) Jubed Khan Hamid Khan
Age-Major, Occu- Agril
R/o. Juble Park, Aurangabad
Tq. & Dist. Aurangabad.
- 9-G) Parvez Khan Hamid Khan
Age-Major, Occu- Agril,
R/o. Sadat Nagar, Paithan Road,
Aurangabad
Tq. & Dist. Aurangabad.
- 9-H) Afroz Khan Hamid Khan
Age-Major, Occu- Agril,

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R/o. Hamediya Garden, Aurangabad,
Tq. & Dist. Aurangabad.

- 9-l) Naveed Khan Hamid Khan
Age-Major, Occu- Agril,
R/o. Begumpura, Aurangabad
Tq. & Dist. Aurangabad.
10. Shaikh Anwar Shaikh Husan
Age-Major, Occu- Business
R/o. Ashirwad Hotel Station Road,
Aurangabad
Tq. & Dist. Aurangabad.
11. Mohammad Shafi Mohd. Yusuf (deceased)
through his L.R's
- 11-A) Mohammad Imram Mohd. Shafi
Age-Major, Occu- Business
R/o. Subji Mandi, Paithan Gate,
Aurangabad
Tq. & Dist. Aurangabad.
- 11-B) Mohammad Jalil Mohd. Shafi
Age-Major, Occu- Agril
R/o. as above.
12. Shanaz Begum Gulam Mohiuddin
Age- Major, Occu- Household,
R/o. Banewadi, Aurangabad
Tq. & Dist. Aurangabad

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13. Mohd. Iqbal Abdul Kalim (deceased)
Through his L.R's

13-A) Mohammad Altaf Mohd. Iqbal
Age- Major , Occu- Business,
R/o. Rauf Colony, Aurangabad
Tq. & Dist. Aurangabad

13-B) Mohammad Asif Mohd. Iqbal
Age- Major , Occu- Business,
R/o. as above

14. Kasam Wali Mohd. (Deceased)
Through his L.R's

14-A) Jarina Begum Kasam Wali Mohammad,
Age- Major , Occu- Household,
R/o. Padmapani Colony, Aurangabad
Tq. & Dist. Aurangabad

14-B) Mohammad Afzal Kasam
Age- Major , Occu- Business
R/o. as above

14-C) Mohammad Imran Kasam
Age- Major , Occu- Business
R/o. as above

15. Abdul Sattar Suleman (deceased)
through his L.R's

15-A) Abdul Majid Abdul Sattar,
Age- Major , Occu- Business
R/o. Sadat Nagar , Railway Station Road,
Aurangabad Tq. & Dist. Aurangabad

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15-B) Abdul Rasheed Abdul Sattar,
Age- Major , Occu- Business
R/o. as above.

16. Mohammad Vikaruddin Mohd. Kutubuddin (deceased)
Through his L.R's

16-A) Ajjuddin Vikaruddin S/o. Mohd. Vikaruddin
Age- Major, Occu- Business,
R/o. Silk Milk Colony, Paithan Road,
Aurangabad
Tq. & Dist. Aurangabad.

16-B) Ayyazuddin Vikaruddin S/o. Mohd. Vikaruddin
Age- Major, Occu- Business,
R/o. Silk Milk Colony, Paithan Road,
Aurangabad
Tq. & Dist. Aurangabad.

16-C) Raeesuddin Vikaruddin S/o. Mohd. Vikaruddin
Age- Major, Occu- Business,
R/o. Silk Milk Colony, Paithan Road,
Aurangabad
Tq. & Dist. Aurangabad.

17. Gulam Mohammad Ali Abdul Aziz (deceased)
through L.R's

17- A) Uraj Ahmed Mohammad Ali
Age- Major, Occu- Business,
R/o. Sadat Nagar,
Railway Station Road, Aurangabad
Tq. & Dist. Aurangabad.

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dated 26/04/2018)

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18. Mohammad Salim Abdul Sattar
Age- Major, Occu- Business
R/o. Padma Colony, Railway Station Road,
Aurangabad
Tq. & Dist. Aurangabad
19. Rafiq Adamji
Age – Major, Occu- Business,
R/o. Silk Milk Colony, Paithan Road,
Aurangabad
Tq. & Dist. Aurangabad
20. Sabbir Ahmed Khan Hazi Sardar
Age- Major, Occu- Agril,
R/o. Behind R.T.O. Office, Hamalwadi,
Aurangabad
Tq. & Dist. Aurangabad
21. Hazi Salauddin Mohd. Ansari
Age- Major, Occu-Agril,
R/o. Railway Station Road,
Aurangabad
Tq. & Dist. Aurangabad
22. Principal
Krushi Tantra Vidyalaya, Paithan Road,
Aurangabad, Tq. & Dist. Aurangabad
23. Bilkish Begum Kamal Khan
Age- Major, Occu-Agril,

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24. Hussain Khan Kamal Khan (deceased)
Through L.R's
- 24-A) Shagheda Begum Mohammad Hussain Khan
Age- 48 yrs, Occu Business
- 24-B) Mohamad Shahabaz Khan Mohamad Hussain Khan
Age- 38 yrs, Occu-Business,
- 24-C) Mohamad Shahanawaz Khan Mohamad Hussain Khan
Age- 34 yrs, Occu- Business,
- 24-D) Fareen Begum D/o. Mohamad Hussain Khan
Age- 22 yrs, Occu-Household,
- 24-E) Samreen Begum D/o. Mohamad Hussain Khan
Age-20 yrs, Occu-Household
All R/o. House no. 4/29/2/494, Osmanpura,
Aurangabad.
25. Mohammad Ismail Mohd. Kamal Khan
Age- Major, Occu-Agril,
26. Mohammad Noor Khan Mohd. Kamal Khan
Age- Major, Occu-Agril,
27. Mohammad Irfan Khan Mohd. Kamal Khan
Age- Major, Occu-Agril,
28. Mohammad Sadik Khan Mohd. Kamal Khan
Age- Major, Occu-Agril,
29. Mohammad Mohasin Khan Mohd. Kamal Khan
Age- Major, Occu-Agril,

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30. Gausiya Begum W/o. Abdul Shaikh
Age- Major, Occu-Agril,
31. Sabiya Begum Wasim Khan
Age- Major, Occu-Agril,
32. Imran Khan Kamal Khan
Age- Major, Occu- Agril,
R. No. 23 to 32
R/o. Household No. 4-29-2-494, Osmanpura
Tq. & Dist. Aurangabad
33. Tahsildar , Phulambri
Tahsil Office, Phulambri
Tq. Phulambri, Dist. Aurangabad
34. Deputy Collector (General Administration)
Aurangabad, Collector Office, Aurangabad.

Shri A.E. Bomble Advocate for Revision Petitioner

Shri B.K. Jadhav Advocate for respondent no. 1,2,3 , 6 & 7

Shri G.V. Sukale Advocate for respondent no. 26 & 27

Shri R.N. Shirsath Advocate for respondent no.22

Shri Shikh Latif Advocate for respondent no. 23 to 31

**CLAIM : -Revision Petition U/S 91 of Hyderabad Tenancy
and Agricultural Lands Act, 1950.**

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: JUDGEMENT :
(Delivered on 16/01/2023)

1. Being aggrieved and dissatisfied by the judgment and order passed by the Deputy Collector (General Administration) Aurangabad on dated 14/08/2017 whereby common order passed in Appeal No. LR/TNC/Appeal/Banewadi/A-17/2016, Appeal No. LR/TNC/Appeal /Banewadi/A-18/2016 & Appeal No. LR/TNC/Appeal/Banewadi/A-10/2016 the petitioner preferred this petition on the following grounds.
2. That the order passed by Deputy Collector (General Administration) Aurangabad is wrong, illegal and against the provisions of Law. The order passed by Deputy Collector is contrary to the record and perverse findings have been recorded. That the Deputy Collector has totally failed to consider that the present petitioners have filed application before the Tahsildar Phulambri on 20/07/2016 and requested to add party under the provisions of Order-I, Rule 10 of C.P.C. The Tahsildar Phulambri inspite of application of the present petitioners before him not issue any notice and without giving opportunity of hearing passed order. The Deputy Collector while rejecting of the appeal of the present petitioners have observed in the order that petitioners have no any locus standi. That it is settle law that even if the person aggrieved by any order, he can filed appeal. That the Mohommad Zahoor expired on 05/09/1989 and his legal heirs

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namely Fakrunissa Begum was expired on 04/12/2001 and the present petitioners are the legal heirs of deceased Fakrunissa Begum. More over the Civil Judge , Senior Division Aurangabad by order dated 11/06/2010 in M.A.R.J.I. No.811/2006 has also allowed the petition and directed to issue legal heir certificate in favour of the present petitioner in respect of the land Gut no. 24 admeasuring 16 acres 17 gunthas, land gut no. 27 admeasuring 17 acres 39 gunthas and land gut no. 29 admeasuring 25 acre 29 gunthas situated at Banewadi, Paithan Road, Aurangabad and the said certificate is intact till today. Therefore it is clear that petitioners are the legal heirs of the original owner and they are necessary and interested party in the proceeding before the Tahsildar and Deputy Collector Aurangabad has failed to consider this aspect. That the Abdulla Khan Hayat Khan was not the protected tenant on land gut no. 29. Moreover from the perusal of copy of 7/12 extract from the year 1959-60 onwards 2016 the name of the Abdulla Khan Hayat Khan or his legal heirs Majed Khan and others have not shown in the cultivation column. That is settle position of law that when the application under Section 38 of the Tenancy Act was filed then the original owner or his legal heirs are necessary party to the proceeding. Thereafter the Tahsildar fixed the purchase price. The present petitioners are the legal heirs of original owner and they are interested and aggrieved party against the order passed by Tahsildar Phulambri and therefore they have right and locus to challenge the tenancy right

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of the Abdulla Khan Hayat Khan or their legal heirs, and lastly prayed to allow the revision petition and quashed and set aside the order passed by Deputy Collector.

3. The respondent no. 1,3,4,5,6, 8 (A to 8-H) appeared and resisted the petition contending inter alia that all the contentions raised by the petitioners in the present petition are totally false and misleading and against the facts on record and as such same are specifically denied by answering respondents. It is further submitted that the petitioners are claiming themselves to be the legal heirs and successors of deceased Jahoor Khan and Kamal Khan. As such the compromised terms entered into by the respondent no. 26 and 32 are binding upon the present petitioners and respondent no.23 to 32.
4. It is submitted the petitioners had never appeared on record in the original proceeding initiated by the respondent no. 1 to 9 before the Tahsildar Aurangabad, in respect of issuance of the Ownership Certificate under Section 38(6) of the Hyderabad Tenancy and Agricultural Lands Act. Moreover the present petitioners had never contested or opposed the claim of the original applicants for issuance of the ownership certificate. Moreover the application which is relied upon by the petitioners is also not on record and no such application was filed by the present petitioners on 26/07/2016. The stamps and sign of the Tahsil Office Phulambri on the said application is forged and fabricated. Moreover there is absolutely no evidence on record to show that

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the said Zahur Khan, Fakrunissa Begum or Kamal Khan were the legal heirs of the successors of the deceased Ismail Khan Peer Khan. On the contrary from the perusal of the Revenue Record which has been relied upon by the Tahsidlar and the Deputy Collector in their impugned judgments the following facts are revealed, concretely. That Abdulla Khan was also in possession of the said land on the notified date i.e. 26/01/1956 and so he was considered to be the protected tenant of the said land. The name of Abdulla Khan was entered in the Khasra Patrak, Pahani Patrak of the land in survey no. 29, Banewadi, as the protected tenant. The said name is still continued in the Revenue Record up to the current year. That subsequently Abdulla Khan had resigned and surrendered his tenancy right only in respect of land in survey no. 28 Banewadi, while retaining the land in survey no. 29 for his personal cultivation.

5. It is submitted the Tenancy Tribunal has considered the claim of Abdulla Khan as the protected tenant of the land in survey no. 29 Banewadi, and by orders dated 18/03/1956, has passed the orders that the said Abdulla Khan is entitled to purchase 8 Acre 34 gunthas land in survey no. 29 Banewadi, on the payment of Occupancy price of Rs. 1080/-. That the name of Abdulla Khan is also entered in the list of Protected Tenants as per the declaration under Section 38 E of the Hyderabad Tenancy and Agricultural Lands Act. That the period of Limitation as provided under Section 32 of the said Act will not be applicable for the issuance of the

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ownership certificate under Section 38 (6) of the said Act. As the limitation period of 2 years under Section 32 is only applicable.

6. That the contentions of the petitioner that the original application was not filed by the original applicant within prescribed period of limitation under Section 32 of Hyderabad Tenancy and Agricultural Lands Act is in correct. That the tenancy rights of the protected tenant are inheritable by legal heirs under Section 40 of the Hyderabad Tenancy & Agricultural Lands Act. It is further submitted that the order passed by Deputy Collector (General Administration) Aurangabad is proper, legal and maintainable, no interference is warranted.
7. The respondents no. 26 & 27 have also resisted the revision petition by filing reply on same contentions which have placed on record by respondent no.1,3,4,5,6 & 8 so in order to avoid the repetition as skip the contentions respondent no. 26 & 27.
8. Heard the Ld. counsel Shri Bomble for the revision petitioner & Shri Jadhav advocate for respondent no. 1,2,3 & 6, Shri Sukale advocate for respondent no. 26 & 27, Shri Shirsath advocate for respondent no.22, Shri Shikh Latif advocate for respondent no. 23 to 31 in considerable length.
9. On the submissions advance by both the parties. The following points arise for my determination and findings thereon are given against each point for the reasons below.

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Sr.No.	Points	Findings
1	Whether the judgment and order passed by Deputy Collector (Gen. Administration) Aurangabad dated 14/08/2017 whereby common order passed in Appeal No.LR/TNC/Appeal/Banewadi/A-17/2016, Appeal No. LR/TNC/Appeal /Banewadi/A-18/2016 & Appeal No. LR/TNC/Appeal/Banewadi/ A-10/2016 is proper, legal and maintainable in the eyes of Law?	No
2	Whether interference at the hands of this court/Tribunal is required in the judgment and order passed by Deputy Collector (General Administration) Aurangabad dated 14/08/2017 whereby common order passed in Appeal No.LR/TNC/Appeal/Banewadi/A-17/2016, Appeal No.LR/TNC/Appeal / Banewadi/A-18/2016 & Appeal No. LR/TNC/Appeal/Banewadi/A-10/2016?	Yes
3	What order?	As per final order

For the reasons below-

As to point no.1 & 2-

The points No. 1 & 2 are being interlinked. It can be dealt by giving common reasons.

10. According the petitioners the land survey no.29 admeasuring 25 acre 29 gunthas of Village Banewadi, Tq. & Dist. Aurangabad belongs original owner namely Mohammad Ismail Khan Mohammad Peer Khan. That the present respondent namely

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Majid Khan and other filed the application that the land survey no. 29/2/B situated at Banewadi Tq. & Dist. Aurangabad was declared as a protected tenant in the name of Abdulla Khan S/o. Hayat Khan and they are the legal heirs of the deceased Abdulla Khan Hayat Khan.

11. It is also contended that the application before the Tahsildar that Abdulla Khan Hayat Khan was declared protected tenant and certificate under Section 35 & 37 was issued and in other rights column of the 7/12 extract the name of their father namely Abdulla Khan Hayat Khan was shown and lastly requested to issue ownership certificate of the land Gut no.29/2/B of Village Banewadi. During the pendency of the proceeding before the Tahsildar some of the respondents filed the transfer petition before the Collector Aurangabad and the Collector Aurangabad by order dated 19/04/2014 transfer the said matter to the Tahsildar (General Administration) Collector Office Aurangabad. That during pendency of the matter Tahsildar (General Administration) Aurangabad, Rafiq Adamji and Shaikh Anwar Hussain and Mohd. Viqaruddin Kutubuddin filed the transfer application to the Collector. Thereafter Collector Aurangabad by order dated 13/05/2016 transfer the matter to the Tahsildar Phulambri and directed to Tahsildar Phulambri to decide the matter. It has further submitted that original owner namely as Ismail Khan Peer Khan and Ismail Khan Peer Khan had four sons Zahur Khan, Ahmed Khan, Hidayat Khan and Sardar Khan. Zahur Khan has expired on

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05/09/1989 and his legal heirs daughter namely Fakrunissa Yusuf Khan was expired on 24/12/2001 and present petitioner are the legal heirs of the deceased Fakrunissa Yusuf Khan.

12. It is further submitted that the Civil Court in M.A.R.J.I. No.811/2006 by order dated 11/06/2010 issued heir ship certificate and lastly requested to add party in the proceeding and unless hearing was given to the petitioner no decision may be taken. That the Tahsildar Phulambri has not passed any order of application of the present petitioner Tahsildar has not given any notice to the present petitioner and without hearing them passed the order dated 30/07/2016 and allowed the application of legal heirs of the deceased Abdulla Khan Hayat Khan namely Majid Khan Abdulla Khan. Tahsildar has also held that the land gut no. 29/2/B admeasuring are 8 acre 37 gunthas of Banewadi the ownership certificate under Section 38 (6) of the H.T. & A.L. Act 1950 issued.
13. The main contention of the petitioner are that the original owner Ismail Khan Peer Khan and he was having four son by name Abdulla Khan, Ahmed Khan, Hidayat Khan, Sardar Khan and one daughter by name Fakrunissa Yusuf Khan has expired on 24/12/2001 leaving behind her the present petitioner due to that having interest in the suit property being a legal heirs of Fakrunissa Yusuf Khan. The Civil Judge in M.A.R.J.I No.811/2016 has also issued the heir ship certificate in favour the present petitioner in respect of the land gut no.24, 27 & gut no. 29 of Banewadi, Tq. & Dist. Aurangabad. The said certificate is still intact therefore it is

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clear that the petitioners are the legal heirs of the original owner and they are necessary and interested party in the proceeding before the Tahsildar and Deputy Collector Aurangabad. In support of their contentions they have filed a copy of application dated 26/07/2016 along with the revision petition. On going through it reveals that before Tahsildar Phulambri they have filed application under Order 1 Rule 10 of C.P.C. to add them as a necessary party into the proceeding. However the Tahsildar Phulambri have no considered their application no passed the order on their application no Tahsildar has add them as a party to the proceeding by issuing the notices. The Tahsildar record is not available here. On the application filed by the petitioner before the Tahsildar Phulambri under Order 1 Rule 10 of C.P.C. It is the duty of Tahsildar to issue them notice and to add them as a party to the proceeding, as they are the legal heirs of Fakrunissa Begum Yusuf Khan who has expired on 24/12/20001, Fakrunissa Begum daughter of Ismail Khan Peer Khan. Ismail Khan Peer Khan are four sons and daughter by name Fakrunissa. The petitioner are the sons of Fakrunissa. They are the necessary party to the proceeding the Deputy Collector (General Administration) Aurangabad had also lost his site on this point.

14. On the contrary it is the submission of the respondents that the petitioners are claiming themselves to be the legal heirs and successors of deceased Zahur Khan and Kamal Khan. The present petitioners had never appeared on record in the original

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proceeding initiated by the respondent no. 1 & 2 before the Tahsildar Aurangabad in respect of issuance of ownership certificate under Section 38 (6) of the Hyderabad Tenancy and Agricultural Lands Act. More over the present petitioner had never contested or opposed the claim of the original applicant for issuance of ownership certificate. More over the application which is relied upon by the petitioner is also not on record and no such application was filed by the present petitioner on 26/07/2016. The stamp and the sign of the Tahsildar of the Tahsil Office on the said application is forged and fabricated. The Tahsildar Phulambri as well as Deputy Collector (General Administration) Aurangabad are the parties to this proceeding they have not appeared, not contended that the stamp and signed of the Tahsil Office Phulambri on the said application is forged and fabricated. While advancing the argument the Ld. advocate for the respondents have submitted that the petitioners were not party to the proceeding before the Tahsildar as well as before Deputy Collector (General Administration) Aurangabad and they have no right to prefer revision or the revision is not maintainable before this Tribunal. They further submitted that absolutely no evidence on record to show that Zahur Khan, Fakrunissa Begum or Kamal Khan were the legal heirs and successors of the deceased Ismail Khan Peer Khan. Shri Sukale advocate for the respondent had submitted that petitioners are distant kindred and they are not entitled to the suit property.

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15. On going through the entire proceeding, pleadings, documentary evidence and record. It appears that as per the order of Civil Court in M.A.R.J.I. No. 811/2006 the present petitioners are the legal heirs of Fakrunissa Yusufkhan who has expired on 24/12/2001. Fakrunissa Yusufkhan is the daughter of Ismail Khan Peer Khan. Ismail Khan Peer Khan are having four sons by namely Zahur Khan , Ahmed Khan , Hidayat Khan & Sardar Khan.
16. The Tahsildar Phulambri has to allow the application filed by petitioner on 26/07/2016 before him and issuing notices to them, he should add them as a party to the proceeding. The petitioners are necessary interested party in the proceeding before the Tahsildar but no opportunity given to them for the hearing. So in my considered view the matter is to be remanded to the Tahsildar Phulambri for fresh hearing by giving opportunity to the petitioner to put their side. They are also necessary and interested party into the proceeding, so the order passed by Deputy Collector (General Administration) Aurangabad dated 14/08/2017 whereby common order passed in Appeal No.LR/TNC/Appeal/Banewadi/A-17/2016, Appeal No.LR/TNC/Appeal/Banewadi/A-18/2016, Appeal No.LR/TNC/Appeal/Banewadi/A-10/2016, is not proper, legal and maintainable in the eyes of Law. So the interference at the hands of this Court is warranted. I therefore answer to point's no.1 in the negative and point's no.2 in the affirmative.
17. In the result, I proceed to pass following order.

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ORDER

1. The Revision Petition No. 66/B/2017/A is here by partly allowed.
2. The judgment & order passed by Deputy Collector (General Administration) Aurangabad on dated 14/08/2017 in Appeal No.LR/TNC/Appeal/Banewadi/A-17/2016, Appeal No.LR/TNC/Appeal/Banewadi/A-18/2016, Appeal No.LR/TNC/Appeal/Banewadi/A-10/2016 as well as the judgment and order passed by Tahsildar Phulambri in file No. (Old) Kul/CR-28/2012 & 1/2014 new file no. Kul/CR-182/2016 dated 30/07/2016 are hereby set aside.
3. The matter is remanded back to the Tahsildar Phulambri for hearing afresh by issuing notices to the petitioners and adding them as the party to the proceeding. The Tahsildar Phulmabri order to decide the matter within six months by giving opportunity to the both parties.
4. No order as to costs.
5. The record and proceeding be sent to the concerned authority immediately.

Place : Aurangabad
Dated :16/01/2023.


(V.K. Kadam)
Member,
Maharashtra Revenue Tribunal,
Aurangabad