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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2211 OF 2015

Shankar Ravaji Kamadi & Anr.

..Petitioners.

V/s.

The State of Maharashtra & Ors.

..Respondents.

Mr.Suresh M.Sabrad i/b. Yuwraj Dhanraj Patil for the petitioners.
Mr.V./S.Gokhale, AGP for the respondent Nos.1 to 4.

**CORAM : A.S.OKA AND
A.K. MENON, JJ.**

DATED : 9TH MARCH, 2015

P.C. :-

1. Heard the learned counsel appearing for the petitioners and the learned AGP for the respondents. Considering the narrow controversy involved, the petition is forthwith taken up for final disposal. Rule. The learned AGP waives service for the respondents.

2. The first petitioner intends to sell his land bearing Gat No.321, admeasuring 6 Hectares, 34 acres, situate at Talegaon Budruk, Taluka Igatpur, District Nashik to the second petitioner. The proposed transfer is from a tribal to a non tribal. An application was made by the petitioners under sub-section (1) of section 36A of the Maharashtra Land Revenue Code, 1966 (for short 'the said Code') to the Collector of Nashik District for grant of sanction. Sanction cannot be granted for such a sale unless there is a prior approval granted by the State Government.

3. The case made out in the petition is that on the basis of the application made by the petitioners, the Additional Collector made an inquiry and submitted a report to the Divisional Commissioner, Nashik Division, Nashik. In turn, the Divisional Commissioner, Nashik Division, Nashik submitted a report dated 10th September, 2013 to the Additional Chief Secretary, Revenue and Forest Department of the State Government. A copy of the said report is at Exhibit-A to the petition.

4. The petitioner is relying upon the order dated 3rd July, 2014 passed by the Hon'ble Minister of State for Revenue Department of the State Government by which prior approval of the State Government was ordered to be issued. The grievance made in this petition is that, no steps have been taken on the basis of the said order of the Hon'ble Minister. The learned AGP has not received any instructions.

5. So long as the order dated 3rd July, 2014 continues to operate, the same is required to be implemented by the concerned authority. It is not necessary for this Court to decide the issue of legality and validity of the said order. As the said order stands today, the same must be implemented.

6. We, therefore, dispose of the petition by passing the

following order:-

- (i) We direct the State Government to communicate the order dated 3rd July, 2014 to the Additional Collector, District Nashik within a period of one month from today;
- (ii) We direct the petitioners or their representative to appear before the Additional Collector, Dist. Nashik on 13th April, 2015. The petitioners shall produce an authenticated copy of this order as well as a certified copy of the judgment and order dated 3rd July, 2014;
- (iii) The Additional Collector shall examine whether the order dated 3rd July, 2014 continues to remain in force as on that date. If the said order continues to remain in force as on that date, the Additional Collector shall pass final order on the application of the petitioners in accordance with law within a period of one month from 13th April, 2015;
- (iv) We make it clear that we have not adjudicated upon the legality or validity of the order dated 3rd July, 2014;
- (v) Rule is made absolute in the above terms;
- (vi) All concerned parties to act upon an authenticated copy of this order.

(A.K.MENON, J.)

(A.S.OKA, J.)