

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6508 OF 2015

Dagu Karbhari Lokhande and Others. .. Petitioners
Vs
State of Maharashtra and Others. .. Respondents
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Shri Harshad M. Inamdar for the Petitioners.
Shri V.S. Gokhale, AGP for the Respondent Nos.1 to 3.
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CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ
DATED : 14TH AUGUST 2015

PC.

1. This is one of the several Writ Petitions filed in this Court complaining about the inaction of the Authorities and in particular of the State Government while dealing with the Applications made under Sub-section (1) of Section 36A of the Maharashtra Land Revenue Code, 1966.

2. This Petition appeared before the Court on 9th July 2015. To enable the learned AGP to ascertain the status of the Application made by the Petitioners, the Petition was adjourned till 7th August 2015, high upon board. Thereafter, the Petition was called out on 7th August 2015 which was again adjourned till today to enable the learned AGP to take instructions.

3. The learned AGP states that notwithstanding the communication issued by the office of the Government Pleader, no instructions have been issued.

4. Considering the fact that the Application is made for seeking permission for sale of the land held by the Petitioners who claim to be tribals to a non-tribal, prior approval of the State Government under Clause (b) of Sub-section (1) of Section 36A of the said Code is required. The Petition discloses that on the basis of the said Application made by the Petitioners, the Collector of District Nashik submitted a report dated 20th February 2014 to the office of the Divisional Commissioner, Nashik Division, Nashik. The learned counsel appearing for the Petitioners on instructions states that on 14th March 2014, the Divisional Commissioner, Nashik Division, Nashik has submitted a report to the State Government addressed to the Additional Chief Secretary of the Revenue and Forest Department, Mantralaya, Mumbai, vide Outward No.3578 dated 14th March 2014. His submission on instructions is that the State Government has not taken any decision on the said proposal. As the learned AGP has no instructions, we dispose of the Petition by passing the following order:-

ORDER :

- (a) If the Divisional Commissioner, Nashik Division, Nashik has not forwarded the proposal based on the Application made by the Petitioners, he shall do so within a period of one month from today;
- (b) The State Government shall take appropriate decision on the said proposal for grant of prior approval under Clause (b) of Sub-section (1) of Section 36A of the Maharashtra Land Revenue Code, 1966 within a period of two months from the date of receipt of the proposal from the Divisional Commissioner, Nashik Division, Nashik;
- (c) If the said proposal from the office of the Divisional Commissioner, Nashik Division, Nashik is already received by the State Government, appropriate decision shall be taken thereon within a period of two months from today;
- (d) The decision taken by the State Government shall be forthwith communicated to the District Collector,

Nashik, who shall pass an order on the Application made by the Petitioners within a period of one month from the date on which the decision of the State Government is received by him;

- (e) All contentions of the Petitioners are kept open;
- (f) The Petitioners shall serve an authenticated copy of this order to the office of the District Collector, Nashik, the Divisional Commissioner, Nashik Division, Nashik, and the Additional Chief Secretary of the Revenue and Forest Department, Mantralaya, Mumbai;
- (g) The Petition is disposed of on above terms;
- (h) All concerned to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)