**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.8183 OF 2014**

Sou. Sharada Dashrath Ghule ....Petitioner.
Versus
Smt. Sonabai Shankar Bhalekar
& Ors. ...Respondents.

Mr. Sanjiv Sawant, advocate for the Petitioner.
Ms. Vaishali Bener with Mr. Kamalakar Koli, advocates for the respondent no.1
Ms. Aparna Vhatkar AGP for the respondent no.3-State.

**CORAM : SHRI M.S.SONAK, J.**

**DATED : February 25, 2015.**

**P.C.:**

This petition is directed against the order dated 14.8.2014 made by the Maharashtra Revenue Tribunal (MRT) declining to entertain the petitioner's appeal under Section 6 of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (Said Act).

2 In this case, there is no serious dispute that the transfer of the suit land has taken place on 27.3.1991. Section 3 of the said Act deals with a situation of transfer of the land of tribal transferor to non tribal transferee. Section 4 of the said Act provides for restoration of land,

where the transfer has taken place between 1.4.1957 and 6.7.1974. Section 2( i ) of the said Act defines "Transfer" in relation to land means the transfer of land belonging to a tribal made in favour of a non-tribal during the period 1.4.1957and 6.7.1974.

3 This Court, in the case of **ASV Samiti V/s. State of Maharashtra 2013(6) Maharashtra Law Journal 557** upon taking into consideration the provisions of the said Act, as also Section 36-A of the Maharashtra Land Revenue Code has recorded the statement made by the learned Advocate General, which reads thus:

> *"4 At the hearing of the Petition, the learned Advocate General appearing on behalf of the State has made a statement before the Court that in those cases where transfers had taken place prior to 6th July, 1994, of land belonging to tribals to non-tribals, action would be taken under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974, particularly under Section 3(1) and section 3(1A). Similarly, where the transfer has taken place after 6th July, 1994, it has been stated that necessary action would be taken under section 36-A of the Maharashtra Land Revenue Code."*

4 From the aforesaid, it is clear that the order made by the Sub Divisional officer on 16 July 2014, which concerns the transfer which took place on 27 March 1991, is basically relatable to the exercise of powers under Section 36-A and other provisions of the Maharashtra Land Revenue Code, 1966. The circumstance that the show cause notice or the order dated 16 July 2014, makes reference to some provisions of the said Act as also the Code, is not determinative of the exercise of power, which in the present case, relates to the Code

5 In the aforesaid circumstances, the Maharashtra Revenue Tribunal was right in making the impugned order, declining to entertain the petitioner's appeal under Section 6 of the said Act. Accordingly, there is no reason to interfere with the impugned order dated 14.8.2014.

6 However, if petitioner institutes an appeal under the provisions of the Maharashtra Land Revenue Code within a period of two weeks from today, then, such appeal shall be entertained by the appellate authority without going into the question of marginal delay in the institution of the same.

7 It is made clear that this Court has not examined merits of the matter and consequently, expressed no opinion on the same.

8 With the aforesaid observations, this petition is dismissed. There shall be no order as to costs.

**(M.S.SONAK, J.)**