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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11602 OF 2014
WITH
CIVIL APPLICATION NO.2959 OF 2014

Maharashtra Nomadic Tribes &
Vimukta Jatis Sagh

..Petitioner.

V/s.

The State of Maharashtra & Ors.

..Respondents.

AND

Sau Ranjana Popatrao Bhansi & Anr.

..Applicants /
Intervenors

Mr.S.K.Shinde i/b. Sham V. Walve & Sachin Gorwadkar for
petitioner.

Mrs.M.P. Thakur, A.G.P. for respondent Nos.1 & 2.

Mr.Shekar Jatap i/b. J. Shekar & Co. for respondent No.3.

Mr.Anilkumar K. Patil with Pradeep J.Thorat for applicants /
intervenors in C.A. No.2959/2014.

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

DATED : 6TH JANUARY, 2015

P.C. :-

1. Heard learned counsel for the petitioner, learned AGP for the first and second respondents and the learned counsel for the third respondent. We have also heard the learned counsel

appearing for the applicants in Civil Application No.2959 of 2010. Learned counsel appearing for the petitioner has today tendered an affidavit cum undertaking of one Mr.Pradep Omkar Badage, the authorized representative of the petitioner. A copy of the resolution passed by the petitioner on 16th December, 2014 authorising Mr.Badage is annexed to the affidavit cum undertaking. The affidavit-cum-undertaking of Mr.Badage is accepted as an undertaking of the petitioner. The same is taken on record and marked 'X' for identification.

2. Learned counsel appearing for the petitioner seeks a direction against the State Government for deciding the representation dated 2nd December, 2014 which is annexed as Exhibit-E to the petition. There is a reply filed by Shri Praveen Gedam, the Commissioner of the third respondent - Nasik Municipal Corporation. From paragraph 6 of the reply, it appears that a representation was made by the petitioner on 2nd December, 2014 to the first respondent and the Additional Commissioner of Nashik Division has submitted a report to the State Government on the representation. Learned AGP states that the said representation is pending.

3. Learned counsel appearing for the petitioner is relying on the endorsement on the said representation (Exhibit-E

to the petition) made by the Hon'ble Minister of the concerned department.

4. In view of the aforesaid undertaking, we direct that the members of the petitioner shall not be evicted from the land bearing survey No.259 situated at Mhasrul, Nashik for a period of four weeks from today. We make it clear that no further extension shall be granted.

5. We direct the State Government to consider the representation dated 2nd December, 2014 (Exhibit-E to the petition) and to pass an appropriate order thereon as expeditiously as possible and in any event within a period of two weeks from today. The representation shall be decided on its own merits without being influenced by the undertaking submitted by the petitioner. The order passed on the representation be forthwith communicated to the petitioner.

6. If the order passed on the representation be adverse to the petitioner, it will be open for the petitioner to adopt appropriate proceedings to challenge the said order.

7. We make it clear that the protection granted for a period of 4 weeks is confined to the members of the petitioner.

The authorities are free to take action against the others.

8. If the members of the petitioner fail to remove themselves from the land bearing Survey No.259 within a period of four weeks, without prejudice to the other remedies available to the Municipal Corporation, it will be open for the Municipal Corporation to take the action of removal of the members of the petitioner. On expiry of a period of four weeks from today, if the members of the petitioner fail to remove themselves, we direct the Commissioner of Police, Nashik to provide adequate police assistance to the municipal staff for taking action for their removal.

9. The petition is disposed of in the above terms.

10. The Civil Application No.2959 of 2014 does not survive and hence is disposed of as such.

(A.K.MENON, J.)

(A.S.OKA, J.)