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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 12776 OF 2016

PANNALAL SHIVRATAN BAGADIA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Deshpande Ajay S.
AGP for Respondents: Mr.P.S.Patil for R.1 to 3.

...
CORAM : S.C.DHARMADHIKARI &
MANGESH S. PATIL,JJ.

DATE : 19/06/2017

PER COURT :-

1] We have heard Mr. Deshpande learned counsel at some length and with his assistance so also of learned AGP, perused the Petition and its annexures.

2] Sub-sections (3) and (4) of Section 44 of the Maharashtra Land Revenue Code 1966 read as under.

“Sec. 44] Procedure for conversion of use of land from one purpose to another.

[3] If the Collector fails to inform the applicant of his decision within ninety days from the date of acknowledgment of the application, or from the date of receipt of the application – if the application is not acknowledged, or within fifteen days from the date of receipt of application for a temporary change of user or where an application has been duly returned for the purposes mentioned in clause (b) of sub-section (2), then within ninety days [or as the

case may be, within fifteen days] from the date on which it is again presented duly complied with, the permission applied for shall be deemed to have been granted, but subject to any conditions prescribed in the rules made by the State Government in respect of such user.

[4] The person to whom permission is granted or deemed to have been granted under this Section shall inform the Tahsildar in writing through the village officers the date on which the change of user of land commenced, within thirty days from such date.”

3] A bare reading of the same would indicate that it is subject to sub-section (2) of Section 42 of the Act, that a person holding a land which is assessed or held for the purpose of agriculture and desiring it to use for non agricultural purpose, or which is assessed or held for a particular non agricultural purpose wishes to use it for another non agricultural purpose then he has to seek a permission. He has to make an application to the Collector in accordance with the form prescribed. What is to happen after receipt of that application is set out in sub-section (2). If that does not happen what are the consequences, are then set out in sub-section(3). The person who makes that application is then permitted to proceed in accordance with sub-section (4) of this provision. All these Sections read together would therefore indicate as to how the petitioner was not required to approach this Court when the law is clear. If the provisions of law as understood by us, with their implications and consequences are not questioned either by the petitioner or by his counsel then the Petition itself is misconceived. It is disposed of.

(MANGESH S. PATIL,J.)

(S.C.DHARMADHIKARI,J.)