

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9530 OF 2015

Raju @ Rajendra Eknath Mali. .. Petitioner
Vs
State of Maharashtra and Others. .. Respondents
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Shri Harshad M. Inamdar for the Petitioner.
Ms. Aparna Vhatkar, AGP for the State.
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CORAM : A.S. OKA & A.K. MENON, JJ

DATED : 4TH APRIL 2017

PC.

1. Not on board. Taken on board.
2. Heard learned counsel appearing for the Petitioner and the learned AGP for the State.
3. The Petitioner made an application under Sub-section (1) of Section 36A of the Maharashtra Land Revenue Code, 1966 (for short “the said Code”) seeking permission to transfer by way of sale his holding in favour of a person who is a non-tribal. Under Sub-section (1) of Section 36A of the said Code, no such transfer by way of sale can be effected without previous sanction of the Collector. As per Clause (b) of Sub-section (1) of Section 36A of the said Code, the Collector is

empowered to grant previous sanction with the previous approval of the State Government. On the basis of the Application dated 12th December 2012 made by the Petitioner, the Additional Collector, Nashik on 23rd September 2014 submitted a proposal to the Divisional Commissioner, Nashik. The Divisional Commissioner, Nashik by a communication dated 22nd December 2014 submitted the said proposal to the Principal Secretary of the Revenue and Forest Department of the State of Maharashtra. The grievance in the Petition is that the State Government has not taken any decision on the question of issuing prior approval under Clause (b) of Sub-section (1) of Section 36A of the said Code. The learned AGP has no instructions on the steps taken by the State Government. However, she confirms that a proposal was submitted by the Divisional Commissioner, Nashik Division, Nashik.

4. Considering the fact that the Petitioner's Application made in the year 2012 is still pending, we dispose of the Petition by passing the following order:

ORDER :

- (a) We direct the Petitioner to submit an authenticated copy of this order in the office of the Principal Secretary (Revenue), Revenue and Forest Department, Government of Maharashtra;

- (b) Within a period of one month from the date on which an authenticated copy of this order is produced by the Petitioner, the State Government shall take appropriate decision on the question of issuing prior approval under Clause (b) of Sub-section (1) of Section 36A of the Maharashtra Land Revenue Code, 1966. The decision taken by the State Government shall be communicated to the Additional Collector, Nashik;
- (c) Within a period of one month from the date on which the decision of the State Government is communicated to the Additional Collector, Nashik, he shall decide the Application dated 12th December 2012 made by the Petitioner in accordance with law and communicate the order passed thereon to the Petitioner;
- (d) As the Petitioner has averred that he belongs to “Vimukta Jati”, we make it clear that the issue whether the Petitioner is a Tribal within the meaning of Sub-section (1) of Section 36A of the said Code is

kept open to be decided by the appropriate Authority;

(e) All contentions in that behalf are kept open;

(f) The Petition is disposed of on above terms;

(g) All concerned to act upon an authenticated copy of this order.

(A.K. MENON, J)

(A.S. OKA, J)