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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10908 OF 2016**

Shri. Chhailsingh Shivsingh Jaitawat ... Petitioner

Versus

The State of Maharashtra & Anr. ... Respondents

Ms. Neeta Karnik i/by Mr. Rajesh Mudholkar for the Petitioner.
Mr. Manish Pabale, AGP for the Respondent - State.

**CORAM : A.S. OKA &
ANUJA PRABHUDESSAI, JJ.**

DATE : 5th JANUARY, 2017

PC.

1 The learned counsel appearing for the Petitioner on instructions of the Petitioner who is personally present in the Court prays that a direction be issued to the authorities to decide the application dated 23rd August, 2016 made by the Petitioner to the Tahsildar, Thane. She invited our attention to the notice issued under Sub-section (3) of Section 50 of the Maharashtra Land Revenue Code, 1966 (for short “the said Code”). Her submission is that the application dated 23rd August, 2016 is an application for regularisation under Section 51 of the said Code.

2 The learned counsel appearing for the petitioner has tendered an affidavit of the petitioner. Paragraphs 1, 2 and 3 of the said affidavit read thus :-

- “1. I say that I have purchased land by Deed of Conveyance dated 28/09/2012 (Exb A) and am put in possession of the same by the erstwhile owners in 2003. Subsequently service road of 17-18 feet width was constructed between the front portion of my structure and Chatrapati Shivaji Highway. As also a drainage nullah was constructed between the service road and my structure. That presently, over and above land owned by me, only a portion of nearly 1000 square feet of government land from survey no.771/81 remains in my possession.
2. I say that I have already filed an Application dated 23/08/2016 to the Tehsildar, Thane seeking regularization of my possession of the above said government land. In case my application seeking regularization is rejected on merits, I hereby undertake to hand over peaceful possession of the aforesaid portion of Government Land which is presently in my possession.
3. I say hat I have no other access to my own land mentioned in para 1 hereinabove. I therefore reserve my right to challenge the rejection of Regularization and/or to enforce my right of access by filing appropriate proceedings.”

3 The affidavit is taken on record and marked 'X-1' for identification. The undertakings in paragraph 2 are accepted.

4 Therefore, this Petition need not be kept pending and the same is disposed of by passing the following order :-

ORDER

- (i) We direct the Tahsildar, Thane to decide the application for regularization dated 23rd August, 2016 in accordance with Section 51 of the Maharashtra Land Revenue Code, 1966. If he has no jurisdiction to decide the application, he shall forward the same to the Competent Authority which is empowered to decide an application under Section 51 of the said Code;
- (ii) Appropriate decision shall be taken on the said application within a period of three months from today. The decision shall be communicated to the Petitioner;
- (iii) It will be open for the Petitioner to file additional documents in support of the said application within a period of two weeks from today;
- (iv) We make it clear that the aforesaid order has been passed as the Petitioner has filed an undertaking. Therefore, needless to add that the Petitioner will not

change the status of the portion admeasuring 1000 square feet which is described in paragraph 1 of the affidavit. All the contentions of the parties on the application for regularization are kept open;

- (v) The Petition is disposed of;
- (vi) All concerned to act upon an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)