

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.14262 OF 2016

Smt. Chandrabhaga Ragho Ware

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

.....

Ms Leena Patil for the Petitioner.

Ms Aparna Vatkar, AGP for the Respondent No.1-State.

CORAM : A.S. OKA &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED: 6th FEBRUARY, 2017.

P.C.:-

Rule. The learned AGP waives service for the Respondents.

Forthwith taken up for final disposal.

2. The Petitioner claims that she belongs to a tribal community. For various reasons, she intended to sell an agricultural land held by her. Therefore, an application was made by her alongwith others by invoking Sub Section 1 of Section 36 A of the Maharashtra Land Revenue Code (for short 'the said Code'). As per Sub Section 1 of Section 36 A of the said Code, occupancy of a tribal cannot be transferred in any manner without the previous sanction of the Collector. In case of a sale, the Collector is empowered to grant

previous sanction only with the previous approval of the State Government.

3. In the present case, the Petitioner and the others made an application to the District Collector for grant of prior sanction under Sub Section 1 of Section 36 A of the said Code. It appears that a proposal on the basis of the said application was submitted by the Additional Collector of Nashik to the Divisional Commissioner, Nashik Division. By a letter dated 29th March, 2016 the office of the Divisional Commissioner, Nashik forwarded the said proposal to the Revenue and Forest Department of the Government of Maharashtra. The grievance in this Petition under Article 226 of the Constitution of India is that the State Government has not taken any decision on the issue of grant of previous approval as contemplated under Sub Section 1(b) of Section 36 A of the said Code.

4. The case of the Petitioner is that the application made by the Petitioner in the year 2015 is still kept pending on account of the failure of the State Government to take appropriate decision. The learned AGP has no instructions about the status of the pending proposal.

5. Hence, we dispose of the Petition by passing the following order:-

(i) If the State Government has already taken a decision on the proposal dated 29th March, 2016 submitted by the Office of the Divisional Commissioner, Nashik Division (Exh. 'D' to the Petition), we direct the Revenue and Forest Department of the State Government to communicate the decision taken by the Additional Collector, Nashik, within a period of one week from the date on which an authenticated copy of this order is served in the office of the Principal Secretary to the Revenue and Forest Department;

(ii) If the decision on proposal dated 29th March, 2016 is not yet taken, the same shall be taken within a period of two months from today. The decision shall be communicated by the State Government to the Additional Collector District-Nashik within a period of one week from the date on which the decision is taken;

(iii) On receipt of the decision of the State Government, the Additional Collector, Nashik shall pass an appropriate order on

the application made under Sub Section 1 of Section 36 A of the said Code. The order shall be passed by the Additional collector within a period of one month from the date on which decision of the State Government is received by its office;

(iv) Rule is made partly absolute in above terms. All concerned to act on an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)