

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.383 OF 2016

Hirabai Sakharam Bokad. .. Petitioner

Vs

Dy. Collector, Nashik and Others. .. Respondents

—

Shri Tushar M. Khairnar with Shri Sandep D. Shinde for the Petitioner.

Shri Manish Pabale, AGP for the Respondents.

—

CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ
DATED : 16TH JANUARY 2017

PC.

1. The Petitioner claims to be a Tribal. The Petitioner made an Application under Section 36A of the Maharashtra Land Revenue Code, 1966 seeking permission to transfer his land by way of sale. In view of Clause (b) of Sub-section (1) of Section 36A of the said Code, the sale transaction cannot be effected without previous sanction of the Collector and the Collector cannot grant previous sanction without prior approval of the Government.

2. From Exhibit-A to the Petition, it appears that the proposal on the basis of the Application made by the Petitioner was processed by the Additional Collector which was forwarded to the Divisional Commissioner, Nashik Division, Nashik. In the Petition, there are

averments made stating that the said proposal has been forwarded to the State Government and accordingly, it is pending before the State Government.

3. Today, the learned AGP on instructions states that the proposal is still pending before the State Government.

4. Perusal of the Exhibit A to the Petition shows that an Application has been made by the Petitioner in the year 2011. The said Application is still pending with the State Government only because it has not considered the prayer for grant of prior approval in terms of Clause (b) of Sub-section (1) of Section 36A of the said Code.

5. In the present case, the Petitioner who is a Tribal applied for grant of sanction on the ground that he is facing hardship on account of financial difficulties. In our view, the Authorities of the State Government ought to have disposed of the Application within a reasonable time, which has not been done. Accordingly, we pass the following order:

ORDER :

- (a) We direct the State Government to take final decision on the proposal made by the Petitioner on the issue of previous approval in terms of Clause (b)

of Sub-section (1) of Section 36A of the Maharashtra Land Revenue Code, 1966 within a period of one month from today;

- (b) The State Government shall forward its decision to the Collector of District Nashik within a period of six weeks from today;
- (c) The Collector, Nashik shall pass final order on the Application made by the Petitioner within a period of one month from the date on which the order of the State is communicated to him;
- (d) All contentions on merits are kept open;
- (e) The Petition is disposed of on above terms;
- (f) All concerned to act upon an authenticated copy of this order.

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)