

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10528 OF 2018

SABIR SARWAR NIRBAN S/O.
SARWAR KADARR KHAN NIRBAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. G.K. Naik Thigle.
AGP for Respondent Nos. 1 to 6 : Mr. K.S. Patil.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 19th September, 2018.

PER COURT :

1. I have heard the learned advocate for the petitioner and the learned AGP on behalf of respondent Nos. 1 to 6.

2. Since the issue of a notice of hearing dated 09/07/2016, is before me, I am not entertaining this petition. However, considering the grievance voiced by this petitioner and in view of the submissions of the learned AGP, I am disposing of this petition with certain directions.

3. The petitioner contends that the proceedings under Section 36 A of the Maharashtra Land Revenue Code, 1966, with regard to restoration of the land to the tribals cannot be maintained before the Tahsildar of Taluka Akole in Scheduled Tribe Restoration Case

No. 01/2018. The land at issue has already been converted into a non agricultural land in the year 1993, which has, by the passage of about 25 years, completely lost its character. The proceedings before the Tahsildar would not be maintainable. It is, further stated that the Tahsildar Akole/respondent No. 6 appears to be convinced and the proceedings shall be decided against this petitioner.

4. The learned AGP strenuously counters the submissions of the petitioner to the extent of the attributes made to respondent No. 6. He submits that the petitioner has made a statement in apprehension and respondent No. 6 has no reason to make up his mind to decide this proceeding in a particular way. He submits that if the petitioner appears before respondent No. 6 on a given date, all his objections would be considered peremptorily.

5. Learned counsel for the petitioner submits that he would pray for certain documents from respondent No. 6. He would bear the costs of such documents and shall then file his written say in response to the impugned notice dated 09/07/2018, and raise all objections and contentions. Request is that the objections be decided peremptorily.

6. Considering the above, this petition is disposed of with the following directions :

(a) The petitioner shall make an application on the scheduled date on 04/10/2018, before respondent No. 6 for seeking relevant and material documents which may be in the exclusive custody of respondent No. 6.

(b) Respondent No. 6 shall supply such documents on payment of costs to be deposited in advance by the petitioner on/or before 20/10/2018.

(c) The petitioner shall enter his written say on/or before 31/10/2018. All contentions and objections can be raised.

(d) Respondent No. 6 shall consider the contentions of all the litigating sides and shall decide the issue of jurisdiction and maintainability peremptorily.

(RAVINDRA V. GHUGE, J.)