

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.964 OF 2017
(Rama Kusum Yerme vs. State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri S.S. Dhengale, Advocate for petitioner.
Shri H.R. Dhumale, Assistant Government Pleader for
respondents.

CORAM : R.K. DESHPANDE AND
S.M. MODAK, JJ.

DATED : MARCH 26, 2019

The petitioner seeks direction to respondent nos.2 to 6 to consider his claim for right, title or patta over the forest land, i.e. Survey/Gat No.53 area 2 hectares at village Alfar, post Sakhara, Taluq Warora, District Chandrapur. According to petitioner, his representation dated 14/6/2016 has not been decided by the respondent nos.2 to 6.

In response to the notice issued by this Court for final disposal of the matter, it is stated by the respondents that rights of the petitioner are governed by the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Rules of 2007 framed thereunder. Section 6 of the said Act prescribes the Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof. The stand taken by respondents

in paras 6 and 7 of their reply is reproduced below :

“6) It is further submitted that from a bare perusal of Section 6 of the said Act of 2006, it would be clear that Gram Sabha is an authority to initiate the process for determining the nature and extent of individual or community forest tribes. After processing the claims by the individual or by the community, the Gram Sabha is under an obligation to pass a Resolution determining the nature and extent of individual or community forest tribes. After passing the said Resolution, the Gram Sabha is under an obligation to submit the copy of the same with the Sub-Divisional Level Committee. Sub-section (2) of Section 6 of the said Act of 2006 postulates that if any person is aggrieved by the Resolution of the Gram Sabha, then he may prefer an appeal/petition challenging the Resolution of the Gram Sabha before the Sub-Divisional Level Committee. After receipt of the appeal/petition from the aggrieved person, the Sub-Divisional Level Committee after granting a reasonable opportunity to the aggrieved person shall dispose of such petition. The said appeal/petition should be preferred within 60 days from the date of passing of Resolution by the Gram Sabha.

7) It is necessary to mention here that after passing of the Resolution by the Gram Sabha and delivering the copy of the same to the petitioner, as far as the knowledge of this answering respondent is concerned, the petitioner has not preferred any appeal/petition challenging the Resolution dated 15/1/2010 passed by

the Gram Sabha before the Sub-Divisional Level Committee. In that view of the matter, the Resolution passed by the Gram Sabha has attained finality and hence, the instant petition is devoid of any merits. Further, Section 4 of the Act of 2006 provides challenge to the order passed by the Sub-Divisional Level Committee before the authority mentioned in the said Section. The petitioner had an alternate remedy to challenge the said order passed by the respective Authorities. However, till date to the knowledge of this answering respondent, the petitioner has neither challenged the Resolution passed by the Gram Sabha rejecting his claim and hence, the petitioner is not entitled to any relief as claimed in the petition muchless for considering the representation filed by him before the different Authorities. In that view of the matter, the instant petition is devoid of any merits and needs to be dismissed.”

There is no challenge to the Resolution dated 15/1/2010 passed by the Gram Sabha and, therefore, we do not find any substance in the petition. The petition is dismissed.

JUDGE

JUDGE

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