

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (STAMP) NO.1467 OF 2020

Jayram Gajanan Hadal & Anr. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

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Mr. S.M. Sabrad with Ms. Neha R. Parte and Mr. Amey C. Sawant
for the Petitioner.

Mr. P.P. Kakade, Government Pleader with Mr. A.I. Patel, Addl.
Government Pleader and Mr. M.M. Pabale, A.G.P. for
Respondent Nos.1 to 5.

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**CORAM: PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATED : 14th FEBRUARY, 2020.

P.C:-

1. It is settled law that right of an Applicant relates to the date on which the Applicant files an Application properly so-called before the Authority which has to take cognizance of the

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Application and pass necessary orders.

2. Petitioner No.1, a tribal, desired to sell agricultural land to Petitioner No.2, a non-tribal.

3. Section 86A of the Maharashtra Land Revenue Code, 1966 envisages such transfers to be with the prior approval of the Collector.

4. The Petitioners preferred the necessary Application on 14th June, 2010.

5. No orders being passed, the Writ Petitioners were constrained to file Writ Petition No.13470 of 2016 in which orders were passed on 07th December, 2016 directing the Respondents to pass the necessary orders within 12 weeks. The order not being complied with, the Petitioners were forced to file a Contempt Petition registered as No.122 of 2017.

6. During the pendency of the Contempt Petition, the Respondents passed an order rejecting the Application reasoning that the project report and plans were not submitted with the Application. The Petitioners were constrained to visit this Court for the third time by filing Writ Petition No.7385 of 2017 which was disposed of on 07th September, 2018 requiring the Petitioners

to submit the project report and the plans and the authorities to thereafter pass necessary orders. Meaning thereby, the said order recognizes the fact that the Petitioners' original Application was incomplete and become complete when the project report and the plans were filed.

7. The Petitioners filed the project report and the plans in the month of October, 2018. The impugned order came to be passed on 09th August, 2019 granting the permission but on the condition that the sale price to the tribal would be the price as on the date of the order.

8. The grievance of the Petitioners is to the said condition. The argument is simple. That, the sale price has to be as on the date of the Application.

9. The legal position noted by us is that the date of the Application has to be the one on which the Application properly so-called is filed. It means that the Application which is supported by all necessary documents.

10. In the instant case, the Application would be deemed to be a proper Application when in October, 2018, the project report and plans were submitted. Thus, the Writ Petition is disposed of modifying the impugned order by directing that price would be as

of October, 2018 and not August, 2019.

11. Petitioner No.2 shall pay to Petitioner No.1 the amount as per the impugned order as modified by us.

12. A word needs to be spoken.

13. The instant Writ Petition shows the innocence of a tribal. The impugned order confers a benefit to flow from Petitioner No.2 to Petitioner No.1 and the fact that Petitioner No.1 supports Petitioner No.2 itself establishes that the authorities and courts need to be careful while dealing with such matters.

14. No costs.

(SMT. BHARATI DANGRE, J.)

(CHIEF JUSTICE)