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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6609 OF 2016

Sandeep Laxman Nakti and Ors.

.. Petitioners

Versus

The Tahsildar and Ors.

.. Respondents

-
- Mr. K.P. Shah, Advocate for the Petitioners.
 - Mr. S.D. Rayrikar, AGP for Respondent Nos.1 to 4 – State.
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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 12, 2022.

P.C.:

1. Heard both learned Advocates appearing for the respective parties.

2. It is common ground that the impugned order dated 30.03.2016 has been passed without adhering to the contents of Government Resolution dated 11.06.2004. Subsequently Government Resolution dated 07.03.2019 has also been issued on similar lines, clarifying that the Tahsildar is empowered to consider the Applications for transfer of land from occupancy Class-II to occupancy Class-I under the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1976.

3. In the present case, the Sub Divisional Officer (SDO) has *suo moto* cancelled the mutation entry in respect of the land allotted to

the Petitioners and has mutated the name of the Collector in the occupancy column in respect of the subject land of Petitioners.

4. Mr. Shah has also placed reliance on the order dated 10.03.2021 passed by this Court in Writ Petition No.6622 of 2016.

Paragraph Nos.4 and 5 of the said order reads thus:-

“4. Learned AGP supported the impugned order and also raised a preliminary objection that the Petitioner has an alternate remedy of filing an Appeal before the Additional Collector under Section 247 of the Maharashtra Land Revenue Code, 1966.

5. I am however of the opinion that as the issue raised concerns the power of the Tahasildar to effect the transfer of the occupancy and in view of the G.R. dated 07.03.2019, which though issued after passing of the impugned order may have a bearing on this issue, it is necessary for the SDO, therefore, to consider the effect of the G.R. dated 07.03.2019 vis-a-vis the power of the Tahasildar to effect the transfer of occupancy. The impugned order is therefore set aside. The matter is remitted to the SDO for reconsideration. The Petitioners to appear before the SDO on 30.03.2021 along with copy of this order bringing to his notice the G.R. dated 07.03.2019.”

5. The aforesaid twin grievances of the Petitioners therefore need to be redressed while adhering to the contents of the above two Government Resolutions dated 11.06.2004 and 07.03.2019.

6. In view of the above, the impugned order dated 30.03.2016 stands quashed and set aside and the matter is remanded back to the Respondent No.2. Respondent No.2 - SDO is directed to hear the Petitioners afresh in the light of the above observations after giving an opportunity of hearing to the Petitioners and thereafter pass a reasoned order within a period of 6 weeks from today. Petitioners

shall appear before the Respondent No.2 - SDO on 17.10.2022 at 12:00 noon for determining the date of hearing. Petitioners are permitted to file additional documents and written submissions before Respondent No.2.

7. With the above directions, Writ Petition is disposed of.

[MILIND N. JADHAV, J.]

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