

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4480 OF 2022

Shri. Banda Kondiba Kadu

..Petitioner

V/s.

State of Maharashtra and Ors.

..Respondents

Mr. Sumit Khaire for the Petitioner.

Mrs. M.S. Bane, AGP for the Respondent Nos. 1 and 3 to 6/State.

Mr. Advait Sethana a/w Siddhantrao Molankar, Sundeep Raman, Ashutosh Mishra for Respondent No.2/UOI.

CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.

DATE : 1st FEBRUARY 2023

P.C.

. Rule. Mrs. Bane, Learned AGP waives service for Respondent Nos. 1 and 3 to 6. Mr. Sethana, waives service of Respondent No.2. Rule is made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the Petitioner seeks writ of mandamus against the Respondent to decide the application dated 14.08.2020 filed by the Petitioner for conversion of land from occupant Class-II to Class-I land as per Government Resolution dated 07.03.2019. The Petitioner also seeks for a declaration that the land allotted to

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the Petitioner is not forest land as per the provisions of the Forest (Conversion) Act, 1980.

3. Learned AGP at this stage states that the application filed by the Petitioner is not made to the Tahsildar and is made to the District Resettlement Officer, Pune. She seeks three months time to decide the said application.

4. Mr. Sethna, the learned Counsel for the Respondent No.2/ Union of India states that before deciding any such application that is made by the Petitioner or that would be made by the Petitioner in future, the issue will have to be considered whether the land of the Petitioner is forest land or not.

5. At this stage, the learned Counsel for the Petitioner states that since the application dated 14.08.2020 is filed by his client before the Respondent No.4 the District Resettlement Officer, his client will file a fresh application for conversion of land from Class-II to Class-I along with documents to the Tahsildar within two weeks from today. Statement is accepted.

6. If any such application is made within two weeks from today by the Petitioner to the Tahsildar, the Tahsildar to decide the said application in accordance with law. It is made clear that the Tahsildar shall, if necessary, apply for NOC of the Forest

Department, New Delhi for conversion of land from Class-II to Class-I land. Such application for NOC, if necessary shall be made within two weeks from the date of receipt of the application that would be filed by the Petitioner. The Forest Department to deal with such application for NOC within four weeks thereafter. Depending upon the decision about NOC as communicated to the Tahsildar, the application that would be made by the Petitioner shall be decided within eight weeks from the date of decision about NOC. The order that would be passed by Tahsildar shall be communicated to the Petitioner within one week from the date of the decision.

7. It is made clear that at this stage, we have not expressed any views about the merits of the application already made or that would be made by the Petitioner, and also on the issue whether the land allotted to the Petitioner is forest land or not as per the provision of the Forest (Conservation) Act, 1980.

8. All contentions of parties are kept open.

9. If the application is decided against the Petitioner, the Petitioner would be at liberty to file an appropriate proceeding permissible in law and if the same is decided in favour of the Petitioner, consequential reliefs shall be granted in favour of the Petitioner within four weeks from the date of such decision.

10. Writ Petition is disposed of in the aforesaid terms. Rule is made absolute. No order as to costs.

11. Parties to act on an authenticated copy of this order.

M.M.SATHAYE, J.

R.D.DHANUKA, J.