

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7122 OF 2018

Dattatraya Laxman Erande & Another ...Petitioners

Versus

Shankar Sakharam Ubhe & Another ...Respondents

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Mr. S.G. Karandikar i/by Mr. Shashank C. Mangale, for Petitioners.

Mr. Gautam T. Kanchanpurkar, for Respondents.

...

CORAM : SANDEEP V. MARNE, J.

DATE : OCTOBER 12, 2023.

P.C.:

1. The challenge in this Petition is to the order passed by the Maharashtra Revenue Tribunal (MRT) on 4 June 2018 refusing to entertain the Appeal filed by Petitioner under provisions of Section 6 of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. Before the MRT Petitioner had challenged order dated 19 June 2015 passed by Sub Divisional Officer issuing various directions holding transfer of the land to be illegal.

2. According to Mr. Karandikar, the learned counsel appearing for Petitioner, the directions issued by the SDO, are akin to the one under Section

3 of the Restoration Act. He would therefore contend that the Appeal filed under Section 6 of the Restoration Act before the Tribunal was maintainable.

3. Mr. Kanchanpurkar, the learned counsel appearing for Respondents on the other hand would submit that the provisions of Restoration Act are applicable only in respect of transactions which take place between 1 April 1957 to 6 July 1974. He would submit that in respect of transaction that takes after 6 July 1974, the provisions of Restoration Act are wholly inapplicable. He would further submit that all the transactions involved in the present Petition are executed after 6 July 1974 and that the same would be governed by the provision of Section 36A of the Maharashtra Land Revenue Code. Mr. Kanchanpurkar would further submit that a remedy under Section 247 of the Maharashtra Land Revenue Code will have to be exercised by Petitioner in respect of his challenge to the order passed by the Sub Divisional Officer on 19 June 2015.

4. Mr. Karandikar, the learned counsel appearing for the Petitioner would seek leave to withdraw the present Petition with liberty to file appropriate proceedings under the provisions of the Maharashtra Land Revenue Code before the appropriate forum. Mr. Kanchanpurkar, would fairly submit that the Respondents would not oppose such proceedings by raising an

objection that the order dated 19 June 2015 has been passed by the Sub Divisional Officer under the Provisions of the Restoration Act.

5. Reserving the liberty as prayed for by Mr. Karandikar, the Writ Petition is disposed of. The time spent in prosecuting the present Petition shall be considered for condoning the delay in filing the proceedings under the provisions of the Maharashtra Land Revenue Code.

6. With a view to enable Petitioners to exercise the remedy under the provisions of the Code, the interim order granted by this Court on 5 July 2018, is extended by a period of four weeks from today.

(SANDEEP V. MARNE, J.)