



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO. 11946 OF 2024

SHRAVAN DAJI PARDI SONAWANE
VERSUS
THE ADDITIONAL COLLECTOR AND OTHERS

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Mr. Dnyaneshwar S. Bagul – Advocate for Petitioner
Mr. P.D. Patil – AGP for Respondent Nos.1 to 4, State

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CORAM : KISHORE C. SANT, J.
DATE : 18th DECEMBER, 2024

PER COURT :

1. Heard the parties for final disposal by consent.
2. A limited issue involved in the petition is about applicability of Section 36 of the Maharashtra Land Revenue Code (*"M.L.R. Code" for short*) to the land of the petitioner i.e. property bearing land survey No.237/1B admeasuring 03H 36R situated at Mauje Bhadane, Tq. Sakri, Dist. Dhule and survey No.437.
3. The facts in short are that, Ramchandra Motiram Patil who was the original owner was holding the land as class-1 occupant. The father of petitioner who happens to be a tribal purchased the said land on 15.04.1937. The petitioner prayed for conversion of the land

to non-agricultural land and the said permission was granted by the authority by following due procedure under law, even the layout plan was sanctioned by the joint Town Planner vide order dated 8th July, 2016. At the time of sanctioning the layout plan, amount of Rs.32,000/- was also paid by the petitioner towards Nazrana. Later on the Tahasildar, Sakri granted permission to the petitioner to convert the land into non-agricultural land on 19.05.2022 by charging Nazrana of Rs.27,630/-. It is specifically mentioned that, the land is standing from last one year as class-1 land and is not class-2 land. It is also mentioned in the terms and conditions that no permission is required to be obtained under Sections 36 and 36(A) of the M.L.R. Code while granting N.A. permission. However, subsequently the Tahasildar again cancelled N.A. permission by communication dated 19.08.2022 and directed that the note to be taken that the land cannot be transferred without seeking prior permission of the authorities under Sections 36 and 36(A) of the M.L.R. Code.

4. However, the Tahasildar later on granted N.A. permission on 19.09.2022. It is again specifically observed that the land is class – 1 land and the amount of Rs.27,630/- also came to be accepted on 4th May, 2022. In the terms and conditions it is also mentioned that,

restrictions to Sections 36 and 36(A) of the M.L.R. Code would continue even after conversion of land for non-agricultural purpose. It is this order which the petitioner carried to the Collector, Dhule. The Collector, Dhule vide order dated 14.10.2022 rejected the application of the petitioner and thereby refused to remove the condition in respect of Sections 36 and 36(A) of the M.L.R. Code. The petitioner is thus before this Court challenging the order passed by the Collector and for removal of the entry that land would be subject to Sections 36 and 36(A) of the M.L.R. Code.

5. Learned Counsel for the petitioner vehemently argued that, once the land is converted to N.A. purpose, there is no question of applicability of Sections 36 and 36(A) of the M.L.R. Code. The land since beginning is class-1 type and for this reason also there was no restriction. The land was originally belonging to tribal which was purchased. In that view also the land cannot be treated to be a land belonging to a tribal for the purpose of Sections 36 and 36(A) of the M.L.R. Code. Now even the layout plan is sanctioned and thus, now what would be sold is only the pieces of land which are already converted into non-agricultural land. Considering this also such restriction cannot be there. He prays for allowing the petition.

6. Learned A.G.P. has filed an affidavit. He opposes the petition. In the alternative he submits that, the petition needs to be remitted back to the Collector for fresh consideration so that the Collector can consider the matter in detail. No purpose will be served by remitting the matter to the Collector as there was no question of fresh enquiry or detailed order, as the issue is already settled by the orders/judgments of this Court.

7. Learned Counsel for the petitioner during the course of argument relied upon the judgment of this Court of Nagpur bench in *Writ Petition No. 3806 of 2017 and Writ Petition No. 6863 of 2017* in the case of **Ambadas Bapumya Kumre Vs. Maliram Sondaram Sharma and Ors.** and the judgment of this Court in *Writ Petition No.3379 of 2024* reported in *2024 SCC OnLine Bom 1892* in the case of **Jayvant Laxman Bagad and Another Vs. Sub Divisional Officer and Ors.** He further relied upon the order of this Court in *Writ Petition No.7946 of 2024* in the case of **Bharatkumar Manikrao Gavit Vs. The Tahasildar Navapur and Ors.** The Division Bench of this Court at Nagpur bench has clearly held the land for non-agricultural purpose and there is no question of applicability of Sections 36 and 36(A) of the M.L.R. Code. This judgment is passed on the basis of judgment passed by the Hon'ble Apex Court in the case of **Lingappa**

Pochanna Appealwar Vs. State of Maharashtra and Anr. reported in *(1985) 1 Supreme Court Cases 479*. Considering above judgments, I find that there is no dispute about the preposition that once the land is converted into non-agricultural land then restrictions of Sections 36 and 36(A) of the M.L.R. Code would not have any effect and would not be applicable. No restriction under such Sections can be put on such land. In view of the above, this Court is inclined to allow the writ petition. The Writ Petition is allowed in terms of prayer clause 'B'.

8. Writ petition stands disposed of accordingly.

[KISHORE C. SANT, J.]