

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 618 OF 2024

Prakash Sonajee Mahale

.. Petitioner

Versus

The State of Maharashtra through
Secretary Revenue Dept and ors

.. Respondents

...

Ms.Neeta Karnik, Sr. Advocate with Piyush Todkar for the
petitioner.

Ms.S.S. Bhende, AGP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 5th DECEMBER, 2024

P.C:-

1 Ms.Neeta Karnik, the learned senior counsel representing the petitioner has invited my attention to the impugned order, which according to her, is passed in utter disregard to the provisions in the Hindu Succession Act, 1956, as regards its applicability and by inviting my attention to Section 2(2), it is her specific contention that the provisions of Hindu Succession Act, 1956, are not to be applied to the members of any Scheduled Tribe within the meaning of clause (25) of Article 366 of the Constitution of India, unless the Central Government, otherwise directs.

It is her specific submission that the petitioner belongs to 'Kokana' a Scheduled Tribe recognized under the Scheduled Tribe Order, 1950, and therefore, the authorities have gone abjectly wrong in applying the provisions of Hindu Succession Act. She has also invited my attention to the decision of the Apex Court in case of **Kamla Neti (dead) through LRs Vs. Special Land Acquisition Officer and ors**¹, where their Lordships of the Apex Court have requested the Central Government to look into the matter and if necessary, amend the provisions of Hindu Succession Act, since it clearly denied equal right to the daughter belonging to Schedule Tribe community, which is otherwise made available to a female

2 Learned counsel representing the respondent i.e. respondent nos.6 and 7, seek some time to file affidavit in reply.

3 Ms.Karnik shall also take instructions whether the order has been implemented or else, she can pray for the stay of this order on the next date of hearing.

Re-notify to 8/1/2025.

(BHARATI DANGRE, J.)

¹ AIROnline 2022 SC 1103