

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8485 OF 2024

Shri Shivram Namdeo Kathoke	.. Petitioner
Vs.	
Shri. Bhalchandra Ablu Koli & Ors.	.. Respondents

Mr. Girish Agrawal a/w Ms. Chitra Darekar, Advocate for the Petitioner.
Mr. N.R. Bubna for Respondent Nos. 1 and 2.
Mr. P.N. Diwan, AGP for State.

CORAM : ARUN R. PEDNEKER, J.

DATE : 8th JUNE 2026.

P.C. :

1. By the present Petition, the Petitioner challenges the Order dated 15th February 2022 passed in RTS No.3022/3382/Pra.Kra. 275/J-6 by the learned Minister (Revenue), Maharashtra State and order dated 7th March 2022 passed in R.T.S. Appeal No. 562 of 2020 by the Additional Commissioner, Nashik and the Order dated 25th November 2020 passed by the Tahsildar, Nandgaon in Adiwasi Case No.1 of 2019 whereby the Tahsildar was pleased to direct restoration of the tribal land to the Respondent Nos.1 and 2 and the Appellate Authorities and Revisional Authority has upheld the Order of the Tahsildar.

2. Brief facts in the present Petition are that Respondent Nos.1 and 2 sold property bearing Gat No. 529, admeasuring 0 Hectare, 66 R. situated at Mauje Sakore, Taluka Nandgaon, District Nashik to Respondent no.3 and Mutation Entry no. 3107 was recorded accordingly. Respondent no.3 further sold the said property

to the Petitioner on 19th June 2012 and mutation entry No. 3452 was recorded. By registered sale-deed, the Petitioner sold the said property to the Respondent No. 4 and Mutation Entry 3563 was recorded. In 2013, the Respondent Nos.1 and 2 made Application bearing No. Kuka/Case/11 of 2013 before the learned Tahsildar, Nandgaon for cancellation of sale-deeds dated 22nd May 2008, 19th June 2012 and 22nd January 2013 along with mutation entries recorded accordingly and to protect the suit property under Section 36 and 36A of the Maharashtra Land Revenue Code, 1966.

3. By Order dated 24th March 2015, the Tahsildar, Nandgaon partly allowed the application and was pleased to cancel the mutation entries in respect of the sale deeds and further directed to record remark in the other right column that the suit belongs to Schedule Tribes community. The Order was upheld by the Appellate Authorities. Thereafter in Appeal filed by the Petitioner before the Additional Commissioner, matter was remanded back to the Tahsildar for fresh enquiry. The said order was challenged before the learned Maharashtra Revenue Tribunal, Mumbai which was disposed of by granting liberty to file appropriate proceeding before the competent authority.

4. On 30th October 2019, the Respondent Nos.1 and 2 made an application bearing Adiwasi Case No.1 of 2019 before the learned Tahsildar, Nandgaon for restoration of the suit property under Sections 3 and 4 of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (For brevity “Act of 1974”). The present Writ Petition arises from these proceedings.

5. The Tahsildar was pleased to allow the case and directed restoration of the possession of the suit property to Respondent Nos.1 and 2. The Petitioner filed an appeal bearing R.T.S. Appeal No. 562 of 2020 before the Additional Commissioner, Nashik which was dismissed by Order dated 7th March 2022.

6. Being aggrieved, the Petitioner further filed RTS Appeal bearing No. 3022/3382/Pra.Kra. 275/J-6 before the learned Minister, which was also rejected by the learned Minister (Revenue) by order dated 15th February 2023. Challenging the above order, the present Writ Petition is filed.

7. In the above facts, the learned counsel for the Petitioner submits that the Court jurisdictional issue arises in this matter i.e. all the Authorities have failed to ascertain the caste of Respondent Nos.1 and 2 as belonging to the Scheduled Tribes by referring the Caste Certificates of Respondent Nos. 1 and 2 to the Caste Scrutiny Committee. He submits that the authorities constituted under the Acts of 1974 cannot render any finding regarding the caste status of Respondent Nos. 1 and 2 (Original Applicants), and such a determination can only be made by the Caste Scrutiny Committee. In the present case, Respondent Nos. 1 and 2, i.e., the original Applicants, have failed to establish that they belong to the Scheduled Tribes. He therefore submits that the impugned orders are unsustainable in law and are liable to be set aside.

8. Per contra, the learned counsel for the Respondents submits that the Respondent No. 1 and 2 have produced caste certificates of the blood relations

(nephew) and that based on such material, the finding is rendered as regards the caste status of Respondent No. 1 and 2 as belonging to Scheduled Tribes community and therefore the concurrent findings rendered by the authorities below that the Respondent Nos. 1 and 2 belongs to the Scheduled Tribe may not be disturbed and that sufficient evidence was already placed on record to establish that the Respondent Nos. 1 and 2 i.e. the original applicants belong to Scheduled Tribe.

9. Having considered the rival submissions the issue that arises for consideration is as to whether the Respondent No. 1 and 2 i.e. original Applicants belongs to Scheduled Tribes category and that they have established before the authorities that they belongs to Scheduled Tribe. The issue has been covered in various judgments of this Court. The manner in which the castes or the tribe has to be established has been discussed by this Court in the case of **Ulhas Nimba Choudhari & Anr. V. Sardar Khandu Tadvi B/H & Ors.**¹ This Court has observed that the Tahsildar should refer the caste claim of the Respondents / Original Applicants and their legal heirs, to the Caste Scrutiny Committee for verification of the Castes and that the Additional Commissioner cannot render a findings as regards the castes of the original Applicants as belonging to ST category. Similar is the view taken by this Court in the case of **Smt. Kaushalyabai Kisand Dhande V. Fakira Daula Tadvi**² which is as under :

1 2011(3) ALL MR 206

2 2013 (1) All MR 277

9. *Therefore, it follows from the discussion hereinabove that, before taking any decision in the present cases, the Tahsildar should have referred the tribe/caste certificate of the respondents for scrutiny/verification to the appropriate forum,”*

The Supreme Court in the case of **Terraform Magnum Limited (Formerly known as Everest Buildcon Ltd.) V. State of Maharashtra & Ors.**³ at para 12 has observed as under :

“12. However , the enactment is for the benefit of those tribals who really belong to the Scheduled Tribe. By the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, a mechanism has been provided to consider the genuineness of the claim of the persons claiming to belong to the Scheduled Tribe. Such a claim is required to be scrutinized by the Caste Scrutiny Committee. Unless the claim is validated by the Caste Scrutiny Committee, a person cannot be treated to be put into the Scheduled Tribe.”

The Supreme Court has while considering the restoration of land under the Act of 1974 has observed that the claim has to be scrutinised before the Caste Scrutiny Committee. Unless the claim is validated by the Caste Scrutiny Committee, a person cannot be treated as belonging to Scheduled Tribe category.

10. In the instant case, the evidence is given as regards the nephew and other relations contending that the Petitioner also belongs to Scheduled Tribes category. The Supreme Court in the case of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V. State of Maharashtra & Ors.**⁴, in para 22, has observed that if the Applicant relies upon the caste certificates issued to his blood relatives, such a validity certificate has to be issued either by the Scrutiny Committee constituted in

³ 2022 (4) ALL MR 814 (S.C.)

⁴ AIR 2023 Supreme Court 1657

terms of the directions issue in **Kumari Madhuri Patil's** case (AIR 1995 SC 94). It is further observed that in such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued in his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure.

11. From the above judgments, it follows that the Applicants seeking benefit of the restoration of land under the Act of 1974 has to establish that they belongs to ST category and that the finding that the particular Applicant belongs to the ST category can only be rendered by the Scrutiny Committee and not by the authorities constituted under the 1974 Act. It is necessary for the authorities to refer the matter to the Caste Scrutiny Committee to verify the caste/tribe status of the applicants before it. In the instant case, we find that the original applicants / Respondent Nos.1 and 2 are held to be belonging to the Scheduled Tribes community on the basis of caste certificates of family members of the purported relations of the original applicants. The caste validity of the original applicants is not established before the Caste Scrutiny Committee. The concerned Tahsildar ought to have referred the caste certificates of Respondent Nos.1 and 2 for

verification before the Caste Scrutiny Committee and only on such findings being rendered that the original applicants belong to ST community, further exercise of restoration of land in terms of Act of 1974 can be undertaken. Considering the above, this Court would set aside all the impugned orders and remit the matter back to the Tahsildar for fresh verification of tribe status of Respondent Nos. 1 and 2. The Tahsildar concerned to submit the document of caste certificate of the original applicants to the Caste Scrutiny Committee. Respondent No.1 and 2 to produce their caste validity certificates before the Tahsildar and on such certificate being verified by the Caste Scrutiny Committee, further exercise can be conducted for restoration. Since the matter has been pending for long period of time, the Caste Scrutiny Committee to decide the caste claim of the Respondents Nos.1 and 2, (original Applicants) as expeditiously as possible.

12. In view of above, the Writ Petition is disposed of with above observations.

BHALCHANDRA
GOPAL
DUSANE

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[ARUN R. PEDNEKER, J.]