

Vivekanand

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

WRIT PETITION NO. 9915 OF 2019

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Sadhana Builder Thru Mr.
Veerdhawal S Ghag And Anr ... Petitioners
V/s.
Leela Dattu Kakare And Ors ... Respondents

Mr. Rohit D. Joshi, for the Petitioners.

Mr. Prasanna K. Shahane, for the Respondent Nos. 1 &
2.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 12, 2026

P.C.:

1. The present Petition arises from an order passed by the Maharashtra Revenue Tribunal (MRT) in proceedings under Section 4 of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (the 1974 Act).

2. While passing the impugned order, the MRT recorded a finding that the provisions of Section 4 of the 1974 Act were not applicable to the transactions in question. However, despite recording such a finding, the MRT remanded the proceedings to the competent authority under the Maharashtra Land Revenue Code, 1966, for conducting an inquiry under Section 36A of the said Code.

3. The principal contention raised on behalf of the Petitioner is that, although the authorities exercising powers under the two

enactments may be similar, the statutory forums provided for challenging orders passed under the respective enactments are different. It is, therefore, contended that, while examining an order passed in exercise of powers under Section 4 of the 1974 Act, the MRT could not have remanded the proceedings to the competent authority for exercising powers under the Maharashtra Land Revenue Code, 1966. The MRT is not a Tribunal constituted under the said Code and, therefore, could not have issued such a direction in proceedings arising under the 1974 Act.

4. The learned Advocate appearing for the Original Applicant submitted that, in paragraph 3 of the application, the Applicant had specifically referred to Sections 36 and 36A of the Maharashtra Land Revenue Code, 1966. It is, therefore, contended that the MRT was justified in remitting the proceedings to the authority of first instance under the said Code for considering the matter in accordance with its provisions.

5. Having perused the impugned judgment and order passed by the MRT and the order passed by the Tahsildar, it is evident that the proceedings before the Tahsildar were initiated and decided in exercise of powers under Section 4 of the 1974 Act. The nature and scope of the proceedings must, therefore, be determined with reference to the statutory provision under which the Tahsildar exercised jurisdiction.

6. The statutory remedy for challenging an order passed under the 1974 Act lies before the Maharashtra Revenue Tribunal. On the other hand, the remedies available against an order passed in

exercise of powers under Section 36A of the Maharashtra Land Revenue Code, 1966, are governed by Schedule F to the said Code. The two enactments provide separate statutory mechanisms for exercising jurisdiction and challenging the orders passed by the authorities concerned. The MRT, while exercising jurisdiction in proceedings arising under the 1974 Act, could not assume the powers of a Tribunal under the Maharashtra Land Revenue Code, 1966. Nor could it direct an authority to exercise powers under the said Code merely because the relevant provisions had been referred to in the application before it. The jurisdiction of a statutory authority must be traceable to the enactment under which it is constituted and the powers conferred upon it. Consequently, the MRT exceeded its jurisdiction in remanding the proceedings to the competent authority for conducting an inquiry under Section 36A of the Maharashtra Land Revenue Code, 1966. The impugned direction, therefore, cannot be sustained in law.

7. It is further clarified that the transactions in question took place in the years 1981 and 1984. The provisions of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974, are not applicable to the said transactions. The proceedings, therefore, could not have been sustained under Section 4 of the 1974 Act in respect of those transactions.

8. In view of the aforesaid discussion, the judgment and order dated 12 February 2019 passed by the Maharashtra Revenue Tribunal in Revision Application No. 9 of 2019 is quashed and set aside. However, this order shall not preclude the Respondent from initiating proceedings under Section 36A of the Maharashtra Land

Revenue Code, 1966, or from pursuing any other remedy available in law. If such proceedings are initiated, all contentions of the parties on the merits and maintainability of such proceedings are kept open for consideration by the competent authority.

9. In the event of any such application being filed, the competent authority shall consider and decide the same in accordance with law, after granting the parties an opportunity of being heard, wherever required.

(AMIT BORKAR, J.)