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*Bombay Prevention of Fragmentation and
Consolidation of Holdings Act*

Permission to transfer a part of conso-
lidation block under —

GOVERNMENT OF BOMBAY.

REVENUE DEPARTMENT.

Resolution No. C.O.N. 3553.

Bombay Castle, 23rd February 1954.

Letter from the Collector of Ahmednagar, No. RBWS. VI. 892, dated the 2nd July 1953:—

"A Scheme for the consolidation of holdings was made applicable to the village Nandur Budruk in Shrirampur Taluka in this district. The scheme in question has also been confirmed and its actual execution was finished by the end of May 1953.

The owner of Survey No. 46/2A of Nandur Budruk has applied to me for permission to sell land measuring 3 acres 16 gunthas out of Survey No. 46/2A to the Maharashtra Sugar Mills, which cultivate it on lease at present, under rule 16 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Rules, 1948. Survey No. 46/2A measures 6 acres 11 gunthas excluding P. K. of 3 gunthas.

On referring the matter to the Settlement Commissioner and Director of Land Records, he informed that the land measuring 3 acres 16 gunthas out of Survey No. 46/2A of Nandur Budruk i.e. out of the consolidated block No. 77 involves its subdivisions. As provided in section 31 (b) of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, Government permission is necessary to sub-divide the consolidated holding. I have, therefore, to request you to move Government to grant the requisite permission to sub-divide the consolidated block No. 77, formed of Survey No. 46/2A of Nandur Budruk and transfer the same to the Maharashtra Sugar Mills."

Government Memorandum No. C.O.N. 3553/81808-L, dated the 30th July 1953.

Letter from the Settlement Commissioner and Director of Land Records, No. C.L.D./L.R. 17-Ahmednagar, dated the 11th August 1953:—

"Reference Government Endorsement, Revenue Department, No. 3553/81808-L, dated 30th July 1953.

A portion (admeasuring 3 acres 16 gunthas) out of consolidated block No. 77 (formed of Survey No. 46/2A) of village Nandur Budruk in Shrirampur Taluka (Ahmednagar District), which is proposed to be sold by the holder to the Maharashtra Sugar Mills, Limited, is already being cultivated by the latter on lease. As such, its transfer to the latter, as requested by the holder of the consolidated block No. 77, is in accordance with rule 16 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Rules and may, therefore, be allowed."

Government Letter No. C.O.N. 3553/99144-L, dated the 8th September 1953.

Letter from the Collector of Ahmednagar, No. RBWSX 1651, dated the 23rd September 1953:—

"Reference Government Letter No. Con. 3553/99144-L, dated 8th September 1953.

The sale of a portion admeasuring 3 acres 16 gunthas out of consolidated block No. 77 (formed of Survey No. 46/2A) measuring 6-4 and 0-3 (P.K.) involves subdivision of the holding.

According to section 31 (b) of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, permission of Government will be necessary before its transfer by sale is allowed by me under section 31 (a) of the Act."

Government Endorsement No. C.O.N. 3553/115715-L, dated the 3rd October 1953.

Letter from the Settlement Commissioner and Director of Land Records, No. CLD/LR. 17-Ahmednagar, dated 13th October 1953:—

"Reference Government Endorsement, Revenue Department, No. 3553/115715-L, dated 3rd October 1953.

I concur in the view expressed by the Collector of Ahmednagar in his letter No. RBWSX 1651, dated 23rd September 1953."

Memorandum from the Remembrancer of Legal Affairs, No. 2254/A, dated the 2nd February 1954:—

"Section 31 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, provides that notwithstanding anything contained in any law for the time being in force, no person to whom a holding has been allotted under this Act shall—

(a) Transfer *any holding or part thereof* except in accordance with such conditions as may be prescribed;

(b) except with the permission in writing of the State Government sub-divide such holding.

Rule 16 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Rules, 1948, provides that—

(1) all applications for permission to transfer a *consolidated holding* shall be made to the Collector, and

(2) the transfer of holding may be permitted by the Collector subject to the condition that the owner shall first offer it in succession, etc.

It is clear from this rule that the Collector is given power to permit transfer of a consolidated holding and not a part thereof. It is true that under clause (a) of section 31 transfer of any holding or part thereof can be allowed in accordance with such conditions as may be prescribed but no rule has been framed prescribing conditions in accordance with which transfer of a part of a holding can be permitted. Such a rule has not been framed presumably because transfer of a part of a holding would involve sub-division which cannot be permitted except with the permission of Government under clause (b) of section 31. It would, therefore, follow that as the owner of the consolidated holding bearing Survey No. 46/2A (block No. 77) in the present case desires to transfer a part of the holding, the Collector can have no power to permit it and it is only the Government who can allow such transfer under section 31 (b)."

RESOLUTION.—Government is pleased to allow the owner of Survey No. 46/2A of Nandur Budruk to sell a portion (admeasuring 3 acres 16 gunthas and which is leased to the Maharashtra Sugar Mills, Limited) of his consolidated block No. 77 (containing Survey No. 46/2A) at Nandur Budruk, taluka Shrirampur, district Ahmednagar, to the Maharashtra Sugar Mills, Limited.

2. Copies of the Remembrancer of Legal Affairs' Memorandum, with which Government agrees, should be forwarded to the officers concerned for information and guidance.

By order and in the name of the Governor of Bombay,

L. A. DHAMANIGI,
Assistant Secretary to Government.

G. R., R. D., No. C.O.N. 3553, dated 23rd February 1954.

To

The Settlement Commissioner and Director of Land Records,
The Collector of Ahmednagar,
All other Collectors.

No. of 1954.

Copy forwarded for information and guidance to