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Bombay Prevention of Fragmentation
and Consolidation of Holdings Act 1947
Permission to sub-divide the
consolidated block under the
-clarification in respect of--

GOVERNMENT OF MAHARASHTRA,
Revenue & Forests Department,
Circular No. CON.1576/37020/331-L1,
Mantralaya, Bombay-32-BR. 16th July 1977.

C I R C U L A R

Section 3(1) of the Maharashtra Restoration of Lands to Scheduled Tribes Act 1974 enacts that where due to transfer (a) the land of Tribal-transferor is held by a non-Tribal-transferee, or (b) the land acquired in exchange by a Tribal-transferor is less in value than the value of the land given in exchange, and the land so transferred is in possession of the non-Tribal-transferee and has not been put to any non-agricultural use on or before the 6th day of July 1974, then notwithstanding anything contained in any other law for the time being in force or any judgement decree or order of any Court, Tribunal or authority, the Collector either suo motu at any time, or on the application of a Tribal-transferor made within three years from the commencement of this Act shall, after making such enquiry as he thinks fit, direct that the lands of the Tribal-transferor and non-Tribal transferee so exchanged shall be restored to each other. Such restoration of land is likely to involve division of the holdings allotted under the Consolidation Schemes. A question has therefore been raised whether permission of the Divisional Commissioner would be necessary for sub-division of a holding as provided in section 31 (b) of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act 1947. Both the provisions of section 3(1) of the Maharashtra Restoration of Lands to Scheduled Tribes Act 1974 and section 31 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act 1947 have a non-obstante clause and the question has also been raised as to which will prevail.

2. The problem that arises when two or more laws operate in the same field and each contain a non-obstanate clause stating that its provisions will override those of any law, the cases of such conflicts should be decided by reference to the object and purpose of the laws under consideration. In the case under reference, the specific purpose which motivated the enactment of the Maharashtra Restoration of Lands to Scheduled Tribes Act 1974 would be wholly frustrated, if it is not allowed to override the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act 1947. Besides the Act of 1974 is a later Act and therefore its provisions must be allowed to prevail over the earlier law. In the circumstances Government is pleased to direct that as between the Bombay Prevention of Fragmentation & Consolidation of Holdings Act, 1947 and the Maharashtra Restoration of Lands to Scheduled Tribes Act 1974, the latter Act would be a special Act and should prevail.

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

S.D.P. (157)
(S.D.PATIL),
Under Secretary to Government.

To

All Commissioners of Divisions,

All Collectors,

✓ The Settlement Commissioner and Director of
Land Records, Pune.

no. 10112/62
Pune, 30-7-77

copy to Dy. P. R. (all), (all) with spec
copies to A.C.O.s for info & guidance

7/10/77
2/10/77

o/c
10/10/77
by S.C. & D.R.

VGB/-

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