IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10745 OF 2014

SYED SHAH YOUSUF JANI SYED SHAH MAHMOOD QUADRI
VERSUS
SYED SHAKIR PASHA MAHMOOD QUADRI
...
Advocate for Petitioner : Shri Quadri S.A.P.
Advocate for Respondent : Shri Venjane Tukaram M.
...
CORAM : RAVINDRA V. GHUGE, J.
Dated: January 29, 2015
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PER COURT :-

1. I have heard the learned Advocates for the respective sides for quite sometime.

2. It is the petitioner who had approached the Deputy Collector (Atiyat) in File No.1974/END/BD - 5069. The said proceedings were decided by the Deputy Collector (Atiyat) Udgir. An appeal was preferred before the Collector (Atiyat), Latur bearing File NO.2005/END/WS/ 3345. By judgment and order dated 7.10.2005, the appeal filed by the respondent was rejected and the decision of the Deputy Collector (Atiyat), Udgir in favour of the petitioner was upheld. The respondent has preferred a Revision No.18/A/2007/L before the Commissioner (Atiyat), Aurangabad and the said matter has been transferred to the Maharashtra Revenue Tribunal, Aurangabad. An application for condonation of delay is also pending.

3. The petitioner moved an application dated 14.8.2014, which is after

eight years of the lodging of the revision petition, praying for rejection of the revision petition on the ground of tenability. By the impugned order dated 14.8.2014, the application has been rejected and the revision instituted in 2006 is to proceed on its merits.

4. The petitioner contends that the Maharashtra Revenue Tribunal, Aurangabad, does not have the jurisdiction to entertain the revision under Section 11 of the Hyderabad Atiyat Enquiries Act, 1952 since the jurisdiction lies under Section 6 of the Wakf Act, 1995 with the Wakf Tribunal.

5. It is conceded by the petitioner that under Section 8 read with Section 11 of the Act of 1952, various authorities are provided. It is not disputed that the petitioner had initiated the first proceeding, referred above before the Deputy Collector (Atiyat). It is also not disputed that the decision of the Deputy Collector (Atiyat) can be questioned in appeal before the Collector (Atiyat). It is also not disputed that the Board of Revenue includes the Commissioner (Atiyat) and the Maharashtra Revenue Tribunal, Aurangabad.

6. The petitioner has not questioned the tenability of the revision petition for the past about eight years. An application was moved on 14.8.2014. Section 84 of the Act of 1995 is invoked in the said application. The petitioner contends before this Court that Section 6 of the Act of 1995 is relevant.

7. I find from Section 11 of the Act of 1952 that sub-sections (a),(b) and (c) clearly indicate the path which has to be resorted to by the litigating parties before the authorities which are constituted under Section 8 of the Act of 1952.

8. Though the petitioner has attempted to canvas various issues relating to the merits of the matter, in my view, he has been unable to wriggle out of the ambit of Section 11 of the Act of 1952.

9. I, therefore, do not find that the impugned order could be said to be perverse or erroneous. This petition is, therefore, dismissed. Needless to state, so far as the issue of limitation is concerned, as is evident from the noting dated 1.12.2009 of the Maharashtra Revenue Tribunal, Aurangabad placed on record, the said issue is left open for the Maharashtra Revenue Tribunal, Aurangabad to be decided on its merits.

(RAVINDRA V. GHUGE, J.)

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