

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7775 OF 2014

Jagnnath Nivrutti Patil .. Petitioner
vs.
The State of Maharashtra & Ors. .. Respondents

Mr. J. K. Hegde with Mr. Nitin Rakshe for Petitioner.
Mr. S. D. Rayrikar – AGP for Respondent Nos. 1 to 4.
Mr. Dilip Bodake for Respondent No. 5.

CORAM : M. S. SONAK, J.
DATE: 28 JANUARY 2015

P.C. :-

1] Rule. At the request and with the consent of the learned counsels for the parties, Rule is made returnable forthwith.

2] This petition is directed against the order dated 2 June 2014 made by the Deputy Director of Land Records (“impugned order”).

3] There is no serious dispute that the impugned order is relatable to Section 32(3) of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (“said Act”). As against the said order, the State Government or the Commissioner in respect of such matters as the State Government may by general or special orders specified in this behalf shall have revisional powers under Section 35 of the said Act. This Section reads thus :

“35. The [State] Government [or the Commissioner in respect of such matters as the State Government may by general or special order specify in this behalf] may at any time for the purpose of satisfying itself [or himself as the case may be,] as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference

thereto as it [or he, as the case may be,] thinks fit:

[Provided that no order shall be varied or revised until the parties interested have been given a reasonable opportunity of showing cause against the proposed variation or revision of the order.]”

4] Accordingly, there is no reason to entertain the present writ petition as against the impugned order. The petitioner shall be at liberty to prefer a revision petition under Section 35 of the said Act.

5] Although Section 35 of the said Act does not prescribe for any limitation as such, it is normally expected that such petitions are filed within reasonable time. In the present case the impugned order is dated 2 June 2014. The certified copy thereof was obtained by the petitioner on 15 July 2014. This petition was lodged on or about 16 August 2014. In these circumstances, if the petitioner institutes a revision petition against the impugned order within a period of four weeks from today, then certainly such revision petition can be said to have been instituted within reasonable time.

6] Accordingly, the petitioner is granted liberty to institute revision petition against the impugned order under Section 35 of the said Act within a period of four weeks from today. If the revision petition is instituted by the petitioner, then the same shall be considered by the revisional authority on its own merits, without advertng to the issue of limitation or whether the same has been instituted within reasonable time.

7] Further, considering the circumstance that the impugned order seeks to bring about a change in the position, which was prevalent for last number of years, it is appropriate that for a period

of four weeks from today as also during the pendency of revision petition before the revisional authorities, there shall be a stay on the implementation of the impugned order dated 2 June 2014 and the consequential notice dated 18 July 2014. This Court, by its order dated 26 August 2014, had already granted the petitioner ad interim relief in terms of prayer clause (c). The effect of the interim relief now granted is that the parties shall maintain *status quo* in the matter.

8] Further, since interim relief is to operate even during the pendency of the revision petition, it is only appropriate that the revisional authority is directed to dispose of such revision petition as expeditiously as possible and in any case within a period of four months from today. In case the revision petition is decided against the petitioner, then the interim relief now granted will continue for a period of three weeks from the date of communication of the order. For this purpose, it is for the petitioner to indicate the precise address, at which such order is to be communicated.

9] It is clarified that this Court has not adjudicated upon the merits and demerits of the respective cases set out by the parties. All contentions in this regard are accordingly kept open.

10] With the aforesaid, the Rule is disposed of. There shall be no order as to costs.

11] All parties to act on the basis of an authenticated copy of this order.