IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO. 22714 OF 2014

Rajaram S. Patil .. Petitioner
vs.
Bapu K. Patil & Ors. .. Respondents

Mr. Umesh Mankapure for Petitioner.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE : 06 FEBRUARY, 2015

***ORAL JUDGEMENT**. :-*

1] This petition is directed against the order dated 22 November 2013 made by the Maharashtra Revenue Tribunal (MRT) interfering with the judgment and order dated 8 April 1999 made by the Additional Collector in the purported exercise of *suo moto* revisional jurisdiction under Section 76A of the Maharashtra Tenancy and Agricultural Lands Act, 1948 ("said Act").

2] In the present case, the Sub Divisional Officer (SDO), who acts as the delegate of the Collector had declined the petitioner's application for permission under Section 63 of the said Act in the matter of transfer of agricultural land to non agriculturists. This was by means of order dated 17 November 1997.

3] The Additional Collector, in purported exercise of *suo moto* revisional jurisdiction conferred by Section 76A of the said Act has interfered with the said order dated 17 November 1997. *Suo moto* cognizance was admittedly taken by the Additional Collector on 15 December 1998 i.e. beyond the period of one year from the date when the order dated 17 November 1997 was made.

4] The MRT, by the impugned order has basically interfered with the decision of the Additional Collector dated 8 April 1999, on the following three grounds:

(A) That *suo moto* revisional jurisdiction can be exercised by the Collector, only where an appeal against the order is provided under the said Act, and where the same has not been preferred within the period of limitation prescribed for it. As against the order made under Section 63 of the said Act, no appeal was at all provided under Section 74 of the said Act;

(B) In any case, in terms of the proviso to Section 76A, no *suo moto* jurisdiction can be exercised after the expiry of one year from the date on which the order came to be made;

(C) Further, the order under Section 63 in the present case was made by the SDO, whereas *suo moto* revisional jurisdiction under Section 76A applies to orders made by Mamlatdar or Tribunal.

5] There is no infirmity in the reasoning of the MRT. Section 76A of the said Act, reads thus:

> "*76A.* ***Revisional powers of Collector*** *– Where no appeal has been filed within the period provided for it, the Collector may, suo motu or on a reference made in this behalf by the Divisional Officer or the State Government, at any time,-*
> *(a) for the record of any inquiry or the proceedings of any Mamlatdar or Tribunal for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of such Mamlatdar or Tribunal, as the case may be, and*
> *(b) pass such order thereon as he deems fit:*
> *Provided that [no such record shall be called for after the expiry of one year from the date of such order] and no order of such Mamlatdar or Tribunal shall be modified, annulled or reversed unless opportunity has been given to the interested parties to appear and be heard.]"*

6] From the reading thereof, it is clear that the revisional powers can be exercised by the Collector under Section 76A of the said Act, in a situation where no appeal has been filed against the order within the period prescribed for it. This presupposes that an appeal otherwise lies against such an order. If the provisions contained in Section 74 are seen, then there is no appeal provided as against the order made under Section 63 of the said Act. In such circumstances, there was no question of the Additional Collector exercising any powers under Section 76A of the said Act.

7] Further, the proviso to Section 76A makes it clear that no record shall be called for after expiry of one year from the date of such order and no order of such Mamlatdar or Tribunal shall be modified, annulled, reversed, unless opportunity has been given to the interested parties to appear and to be heard. In the present case, period of one year had expired since making of order dated 17 November 1997. Accordingly, the bar under the proviso would trigger in. The same would also render the exercise of jurisdiction by the Additional Collector, *ultra vires*.

8] Thirdly, Section 63 of the said Act refers to grant of permission by the Collector. The powers of the Collector, in the present case have been delegated to the SDO. Accordingly, against the exercise of powers by the SDO at least *prima facie,* there is no question of the Additional Collector exercising any revisional powers. Besides, Section 76A of the said Act makes reference to calling for record of any enquiry or proceedings of any Mamlatdar or Tribunal and thereafter exercising revisional jurisdiction with respect of the same. The order dated 17 November 1997, which has been interfered with by the Collector in exercise of jurisdiction under Section 76A of the said Act, was neither made by the Mamlatdar or the Tribunal. Accordingly, the Collector had no powers to interfere with the same in exercise of revisional jurisdiction under Section 76A.

9] As noted earlier, there is absolutely no infirmity in the view taken by the MRT. This petition is accordingly dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

Chandka