

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9894 OF 2015
WITH
CIVIL APPLICATION NO.3082 OF 2015

Shaukat Akbar Mulla.] ... Petitioner

Versus

Ld. District Superintendent of Land Record,]
 Sangli and Ors.] ... Respondent

Mr. Umesh H. Pawar for Petitioner.

Mrs. M. S. Bane, 'B' Panel Counsel for Respondent Nos.1 to 3.

Mr. Bhushan Walimbe for Respondent Nos.4 to 9 and 11 to 14.

CORAM :- M. S. SONAK, J.

DATE :- DECEMBER 02, 2015

P. C. :-

1. The challenge in this petition is to the order dated 15/05/2014 made by the Deputy Director of Land Records, Pune, Division, Pune, under The Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ('the said Act').

2. The learned Counsel for respondent Nos.4 to 9 and 11 to 14, as well as the learned Counsel for respondent nos.1 to 3 point out that as against the impugned order, there is remedy of revision under Section 35 of the said Act before the State Government.

3. The learned Counsel for petitioner tried to contend that the remedy of revision is not available. However, the learned Counsel for unable to state precisely as to why such remedy of revision is not available against the impugned order. The submission was that there is overlapping of authorities under the Maharashtra Land Revenue Code, 1966 and the said Act, as a result of which, it was contended that there is some confusion. Be that as it may, the provisions of Section 35 of the said Act are quite clear with regard to the revisional powers of the State Government. That apart, the contesting respondents as also the AGP have themselves raised preliminary objection to the entertainment of the present petition on the ground that the proper remedy against the impugned order would be revision under Section 35 of the said Act. Accordingly, it would be appropriate if such preliminary objection is upheld and the petitioner is relegated to the remedy under Section 35 of the said Act.

4. The learned Counsel for petitioner has made a statement that during the pendency of proceedings before the Deputy director of Land Records, there was a stay in operation in favour of the petitioner. This Court, by order dated 20/10/02015, had granted the petitioner interim relief in terms of prayer clause (c). The learned Counsel for petitioner states that the petitioner shall institute revision before the State Government within a period of two weeks from today but prays that interim relief be continued for a period of at least six weeks from today, so that, the petitioner is able to move the State Government for interim relief in the mater. This request is quite reasonable.

5. Accordingly, this petition is not entertained, as the petitioner has alternate remedy under Section 35 of the said Act to institute a revision petition before the State Government against the impugned order. The interim relief granted in this petition is however continued for a period of six weeks from today.

6. It is made clear that this Court has not adverted to the merits of the matter and therefore all contentions of all parties are left open for adjudication by the revisional authority, should the petitioner institute a revision petition. The revisional authority to decide the revision petition in accordance with law and on its own merits.

7. The petition is accordingly disposed of in the aforesaid terms.

8. All concerned to act on basis of authenticated copy of this order.

9. In view of the above, Civil Application does not survive and the same is also disposed of.

(M. S. SONAK, J.)