

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 113 OF 2014

Dhanaji Ganpat Yadav, since deceased through legal heirs Sanjay D. Yadav	..	Petitioner
VS.		
The State of Maharashtra	..	Respondents

Mr. Rahul Kadam for Petitioner.
Ms Aparna Vhatkar - AGP for Respondent Nos. 1 to 3.
Mr. S. A. Sawant with Mr. Prashant Darandale for Respondent No. 5A.
Mr. Prashant Hagare for Respondent Nos. 10 to 14.

CORAM : M. S. SONAK, J.
DATE : 11 FEBRUARY, 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 25 April 2013 made by the State Government rejecting the petitioner's revision petition against the order made by the Deputy Director of Land Records dated 8 April 2011. Mr. Kadam, the learned counsel for the petitioner submitted that the State Government, in making the impugned order, has not at all considered the issue of delay of almost twelve years on the part of the respondents in seeking

variation of scheme finalized in the year 1973-74 under the Bombay Prevention of The Fragmentation and Consolidation of Holding Act, 1947 (said Act). Mr. Kadam further submitted that the appeal instituted by the respondents before the Deputy Director of Land Records as against the order dated 31 March 1989, was not at all maintainable.

3] Perusal of the impugned order would indicate that there is some consideration of the issue of delay of almost ten years in the institution of an appeal before the Deputy Director of Land Records. However, there does not appear to be any consideration on the aspect of delay in filing proceedings before the Consolidating Officer in the year 1985 with regard to the scheme which was finalized in the year 1973-1974. There also is no consideration of the issue as to whether any appeal was maintainable before the Deputy Director of Land Records as against the order dated 31 March 1989 made by the Consolidating Officer. On these two grounds, it would be appropriate if the impugned order is set aside and the matter is remanded to the State Government for fresh consideration of the petitioner's revision petition.

4] Mr. Sawant, the learned counsel appearing for the respondent no. 5A, however submitted that in the present case the powers

exercised by the Consolidation Officer relate to Section 31A, which permits correction of clerical and arithmetic mistakes in the scheme. The complaint of respondent no. 5A was basically that name of the petitioner has been included in the scheme on the basis of an unregistered document dated 17 October 1974 and that such inclusion was nothing but a clerical mistake or arisen out of accidental slip or omission in the exercise of powers under Section 31A of the said Act. Mr. Sawant submitted that there arises no question of applicability of any period of limitation.

5] Rather than this Court going into the aforesaid issue, it would be appropriate if the State Government, in the aforesaid revision petition, which has since been remanded, goes into such issue as well.

6] Accordingly, the impugned order dated 25 April 2013 is set aside. The matter is remanded to the State Government for fresh decision in accordance with law. All questions, including the question raised by Mr. Sawant as aforesaid is specifically kept open. The State Government to endeavour to dispose of the revision petition as expeditiously as possible and in any case within a period of six months from today. It is once again clarified that this Court has not expressed any opinion on the merits of the matter and all questions in that regard are specifically kept open.

7] Parties to appear before the concerned Secretary on 2 March 2015 at 3.00 p.m. The learned counsel for the petitioner submits that during the pendency of the revision petition before the State Government, there was interim relief obtaining. Accordingly, the same interim relief shall stand revived until the disposal of the revision petition by the State Government in pursuance of the remand.

8] Rule is made absolute to the aforesaid extent. All parties to act on the basis of an authenticated copy of this order.

(M. S. SONAK, J.)

Chandka