

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO. 4264 OF 2014

Popat Eknath Vadge, since deceased through LRs Smt. S. P. Vadge & Ors.	..	Petitioners
VS. Bandu Shankar Datir & Ors.	..	Respondents

Mr. M. S. Karnik with Mr. Sachin Gite and Mr. Sagar Sankpal for
Petitioners.

Mr. P. Patil for Respondent Nos. 1 to 3.

Ms Aparna Vhatkar – AGP for Respondent No. 8.

CORAM : M. S. SONAK, J.

DATE: 28 JANUARY 2015

P.C. :-

1] Mr. Karnik prays for deletion of the names of the respondent nos. 4 to 7, as they are not necessary for deciding the short issue raised in the present petition. Accordingly, leave is granted. Amendment to be carried out forthwith.

2] Heard the learned counsel for the parties. Rule, with the consent of and at the request of the learned counsels for the parties, Rule is made returnable forthwith.

3] The challenge in this petition is to the order dated 13 December 2013 made by the State of Maharashtra in Appeal/ 2013/Case No. 304/J6. Mr. Karnik submitted that the revision petition, which has now been styled as appeal, in the impugned order was preferred against the judgment and order dated 7 May 2013 made by the Divisional Commissioner, Nashik. Perusal of the order dated 7 May 2013 and the impugned order would indicate that they are virtually the mirror images of one another. The learned

counsels submits that this is *prima facie* non application of mind and failure to exercise jurisdiction by the revisional authority.

4] The perusal of the two orders would indicate that they are virtually verbatim copies of one another. Even though the revisional authority has concurred with the view taken by the Divisional Commissioner, it was necessary for the revisional authority to independently apply its mind, particularly to the contentions raised in the revision petition. From the tenor of the impugned order, it does appear that this is a case of non application of mind coupled with failure to exercise jurisdiction. Accordingly, there is no option, than to set aside the impugned order dated 13 December 2013 and to remand the matter to the State Government for fresh adjudication in accordance with law. The State Government, shall endeavour to dispose of the revision petition expeditiously and in any case within three months from today.

5] It is made clear that this Court has not gone into the merits or demerits of the respective cases of the parties. Accordingly, all issues are kept open.

6] Parties to appear before the Secretary, Minister (Revenue) on 10 February 2015 at 3 p.m. along with an authenticated copy of this order. On this date, the parties to obtain the date / dates upon which the revision petition could be heard.

7] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

(M. S. SONAK, J.)