

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7416 OF 2014
WITH
WRIT PETITION NO.7131 OF 2014

Shri. Sopana Bala Kadam (deceased) and ors. ...Petitioners.

vs.

Shri. Vijay H. Khairan and ors. ...Respondents.

Mr. P.K. Dhakephalkar, Sr.Advocate with Manoj Badgujar i/by Abhijit P. Kulkarni for the Petitioners in both the petitions.

Mr. S.G.Karandikar with Mohan Gawade for the Respondents in both the petitions.

CORAM : M.S. SONAK, J.

DATE : 10 FEBRUARY, 2015

PC:

Rule in both the matters.

2) With the consent and the request of the learned Counsel for the parties, Rule is made returnable forthwith.

3) As common issue of law and facts arise, these petitions are being disposed of by common order.

4) The petitioners take exception of the common Judgment

and Order dated 19 May 2014 made by the Maharashtra Revenue Tribunal (impugned order).

5) Mr. Dhakephalkar, learned Sr. Advocate who appears for the petitioners, at the outset submitted that although several issues arise in these petitions, the first contention would be that the impugned order came to be made without afford of any opportunity to the Counsel for the petitioners to make parole argument. In this regard, the learned Sr. Advocate invited my attention to the Roznama which merely records that the parties tendered their written arguments but that there was no agreement to the effect that the matter was to be disposed of on the basis of such written arguments alone. Further, learned Sr. Advocate pointed out that on 5 April 2014, when the written arguments had been filed by and on behalf of the both the parties, the matter was adjourned to 3 July 2014 without indicating that the same was being adjourned for the purpose of passing orders. Much before the appointed date, the impugned Judgment and order came to be passed on 19 May 2014. In these circumstances, the learned Sr. Advocate submitted that there has been breach of principle of natural justice in passing the impugned order.

6) Mr. Karandikar, learned Counsel for the respondents defended the impugned order by submitting that since the written

arguments were filed by the parties, there does not arise any breach in the principle of natural justice.

7) Having heard the learned Counsel for the parties and perused the record, it is to be noted that there is no agreement as such, recorded that revision applications were to be disposed of only on the basis of written arguments. Further, even after both the parties filed their written arguments, the matter was not closed for orders which normally would have been the case, had there been any agreement that the matter was to be disposed of only on the basis of written arguments. Instead Roznama indicates that the matter was adjourned to 3 July 2014. Roznama also does not indicate that the matter was adjourned to 3 July 2014 for the purpose of orders. In such circumstances, it does appear that the Counsel for the revision petitioners were deprived of an opportunity to make parole arguments in the matter.

8) Mr. Dhakephalkar, learned Sr., Advocate also pointed out that though the matter was adjourned to 3 July 2014 and the impugned order has been made on 19 May 2014 i.e. much prior to the date appointed.

9) In the aforesaid circumstances, it will be appropriate if,

without going into merits of the matter, the impugned order is set aside and the matter restored to the file of MRT for fresh decision in accordance with law. Counsel for the parties would be afforded opportunity of parole arguments and upon consideration thereof, as also written arguments already submitted, the MRT shall dispose of two revision applications.

10) Accordingly, the impugned order is set aside. The revision applications in which the impugned order was made stands restored to the file of MRT. The MRT in accordance with the aforesaid directions shall hear, decide and dispose of the two revision petitions in accordance with law and within six months from the date of this order.

11) Parties to appear before the MRT on 2 March 2015 at 11.00 a.m. for the purpose of directions.

12) Rule is made absolute in the aforesaid extent. There shall be no order as to costs.

13) It is made clear that this Court has not expressed any opinion on the merits of the matter. All questions which arise are therefore, kept open for decision by the MRT.

- 14) Both the petitions are disposed of.
- 15) Parties to act on a copy of this order duly authenticated by the registry of this Court.

(M.S. SONAK, J.)