

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8417 OF 2014

Vasanti R. Salian

.. Petitioner

vs.

The State of Maharashtra and ors.

.. Respondents

Mr. Ramesh Chaulkar i/b Mr. Anand Nikhal for the Petitioner.

Ms Vaishali Nimbalkar, AGP for Respondent Nos.1 and 2.

Mr. R.A. Malandkar i/b MSR & Associates for Respondent No.3.

CORAM : M. S. SONAK, J.

DATE : 4 MARCH, 2015.

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] This petition takes exception to the order dated 25 July 2013 made by the Deputy Director Land Record, Konkan Division, Mumbai (impugned judgment and order).

3] The dispute relates to entries in revenue records. Respondent No.3, instituted an appeal before the District Inspector of Land Records (DILR), which was allowed by the judgment and order dated 29 December 2012. The DILR, by the said judgment and order, remanded the matter to City Survey Officer, Borivali to

enquire into the same and to take an appropriate decision in the matter of entry in the revenue record.

4] The petitioner, aggrieved by the judgment and order dated 29 December 2012 made by the DILR, appealed to the Deputy Director of Land Record, Konkan Division, Mumbai by way of Appeal No. 380 of 2013. By the impugned judgment and order, the Deputy Director of Land Records has not only dismissed the petitioner's appeal, but further directed the City Survey Officer, Borivali to remove entry dated 8 April 1986 in respect of City Survey No.6B.

5] The impugned judgment and order made by the Deputy Director of Land Records, insofar as it dismisses the petitioner's appeal, calls for no interference. However, it was not open to the Deputy Director of Land Records, in the appeal instituted by the petitioner, to make a direction to the City Survey Officer, Borivali to remove entry dated 8 April 1986 in respect of City Survey No.6B, particularly when the DILR by its judgment and order dated 29 December 2012, which was impugned before the Deputy Director of Land Records, had merely remanded the matter to the City Survey Officer, Borivali for fresh enquiry. Accordingly, the direction to City

Survey Officer, Borivali in the impugned order, being in excess of jurisdiction, is set aside. The judgment and order dated 29 December 2012 made by the DILR is restored. The City Survey Officer, Borivali is directed to comply with the judgment and order dated 29 December 2012 made by the DILR. This, the City Survey Officer to do so, within a period of six months from today.

6] Parties to appear before the City Survey Officer, Borivali on 23 March 2015 at 11.00 a.m. in order to obtain directions for the disposal of the matter.

7] It is clarified that this Court has not expressed any opinion on the merits of the matter and therefore it shall be open to the City Survey Officer, Borivali to hold enquiry afresh and take appropriate decision in the matter.

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

(M. S. SONAK, J.)