IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9130 OF 2015

Shrimant M. C. Patwardhan Trust .. Petitioner
vs.
The Divisional Commissioner, Land Revenue Pune Division, Pune & Ors. .. Respondents

Mr. Surel S. Shah with Mr. Siddharth Karpe for Petitioner.
Ms Vaishali Nimbalkar - AGP for Respondent Nos. 1 and 4.
Mr. Sunil J. Vhatkar - Circle Officer, Sangli.

WITH
WRIT PETITION NO. 9647 OF 2015

Shrimant M. C. Patwardhan Trust .. Petitioner
vs.
The Divisional Commissioner, Land Revenue Pune Division, Pune & Ors. .. Respondents

Mr. Surel S. Shah with Mr. Siddharth Karpe for Petitioner.
Ms Vaishali Nimbalkar - AGP for Respondent Nos. 1 and 4 to 7.
Mr. V. P. Sawant with Mr. Pramod Kathane for Respondent Nos. 2 and 3.

WITH
CONTEMPT PETITION (STAMP) NO. 26926 OF 2015
IN
WRIT PETITION NO. 9130 OF 2015

Shrimant M. C. Patwardhan Trust .. Petitioner
vs.
Mr. Shyam Deshpande, The Divisional Commissioner, Land Revenue Pune Division, Pune & Ors. .. Respondents

Mr. Surel S. Shah with Mr. Siddharth Karpe for Petitioner.
Mr. V. P. Sawant with Mr. Pramod Kathane for Respondent Nos. 2 and 3.
Ms Vaishali Nimbalkar - AGP for Respondent No. 5.

CORAM : M. S. SONAK, J.
DATE: 07 OCTOBER 2015

P.C. :-

1] The learned counsel for the parties agree that these Petitions can be disposed of by common judgment and order.

2] The challenge in the Writ Petitions is to the order dated 8 September 2015 made by the Divisional Commissioner, refusing to extend the interim relief which was in operation from 28 April 2015 till 11 August 2015.

3] It is the case of the Petitioner that on 11 August 2015, which was the date fixed before the Divisional Commissioner, the Petitioner was present and had also applied for continuation of interim relief. However, on the said date, the Divisional Commissioner was not available and therefore, no formal orders could be passed in the matter of continuation of the interim relief. The matter was then adjourned to 8 September 2015. On the said date, the Petitioner renewed their request for continuation of the interim relief. However, by the impugned order dated 8 September 2015, the Divisional Commissioner has declined to continue the interim order upon the spacious plea that there was no formal order made continuing the interim relief on 11 August 2015.

4] In my judgment, the impugned order is unsustainable. On 11 August 2015, the Divisional Commissioner was not available and therefore the Petitioner could not obtain orders for continuation of interim relief. Considering the position that interim relief was operational from 28 April 2015 and the Divisional Commissioner himself was not available on 11 August 2015, the Divisional Commissioner should have continued the interim relief. In this case, the non continuance of the interim relief is not on merits or after recording satisfaction that the interim relief granted earlier was required to be varied or vacated. The non continuation is only on the spacious plea that no formal orders continuing the interim relief had been passed on 11 August 2015, on which date, the Divisional Commissioner was himself not available to make the orders of continuation.

5] Although, this Court had granted interim protection on 11 September 2015 itself, the Circle Officer, Sangli, who is impleaded as Respondent No.4 in the Contempt Petition has proceeded to delete certain entries in the revenue records, relying upon the impugned order. It is pertinent to note here that the impugned order was made on 8 September 2015 and this Court, on 11 September 2015 had restored the interim relief in favour of the Petitioner. The deletion has been affected by the Circle Officer on 19 September 2015. The order dated 11 September 2015 was made after hearing the learned AGP. The explanation offered by the Circle Officer is that he was personally not communicated with the order made by this Court on 11 September 2015. There is no necessity to initiate any contempt proceedings against the Circle Officer - Respondent No. 4. However, the effect of the Order dated 11 September 2015 cannot be nullified in this manner. Accordingly, the Circle Officer, who is the Respondent No. 4 in the Contempt Petition to restore the entry which he has deleted on 19 September 2015. Such restoration to be effected within a period of two days from today. The Circle Officer, who is present in the Court states that the entry will be restored within two days from today and it is on this basis that no contempt proceedings are being initiated.

6] There shall be interim relief in favour of the petitioner during the pendency of Revision Applications before the Divisional Commissioner. The Divisional Commissioner has already been directed to dispose of the Revision Applications as expeditiously as possible and in any case within a period of three months from 11 September 2015. The said order is hereby reiterated.

7] It is made clear that the restoration of the entry in the revenue record is ordered in the peculiar facts and circumstances of the present case. The circumstances are as indicated in this order. There was interim relief operating in favour of the Petitioner from 28 April 2015 till 11 August 2015 and by the impugned order, the interim relief was unjustifiably vacated. Although, the Respondent Nos. 1 to 4 were represented when the interim relief was restored by this Court on 11 September 2015, the Circle Officer proceeded to delete the entry. This Court has not examined the merits of the matter and therefore, all contentions of all parties are left open for decision by the Divisional Commissioner.

8] The parties to appear before the Divisional Commissioner on 21 October 2015 at 11 a.m. and produce authenticated copy of this order. All parties to co-operate in expeditious disposal of the Revision Applications and neither of the parties shall seek or available any unnecessary adjournments. Rule is made absolute to the aforesaid extent in the Writ Petitions. The Contempt Petition is not entertained. There shall be no order as to costs.

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

Chandka **(M. S. SONAK, J.)**

CERTIFICATE

"Certified to be true and correct copy of the original signed Order."