IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10730 OF 2014

Birendrakumar Jiledar Singh .. Petitioner
vs.
The Collector of Mumbai City
and ors. .. Respondents

Mr. BirendraKumar Singh, Petitioner-in-person.
Mr. A.Y. Sakhare, Sr. Advocate a/w. Ms Pallavi Thakar for Respondent No.2-BMC.
Mr. Aniruddha Joshi a/w. Mr. Atul Kshatriya i/b Mr. Karkand Gandhi & Co. for Respondent No.4.

CORAM : M. S. SONAK, J.
DATE : 2 MARCH, 2015

P.C. :-

1] This petition is directed against the order dated 5 June 2014 made by the Maharashtra Revenue Tribunal (MRT) declining to entertain the petitioner's appeal on the ground that the Society of which the petitioner is a member has already instituted a civil suit before this Court and that the issues raised in the said civil suit are directly and substantially involved in the proceedings which the petitioner has raised before the Revenue Authority.

2] Mr. Birendrakumar Singh, the petitioner-in-person, submitted that the MRT has erred in making reference to the provisions contained in Section 316 of the Maharashtra Land Revenue Code, 1996 (said Code) without satisfying itself as to whether or not a case was made out for exercise of jurisdiction under Section 315 of the said Code. Mr. Singh also submitted that the MRT has incorrectly directed the petitioner to take resort to the provisions contained in

Section 247 of the said Code, when infact, according to Mr. Singh the said provisions are not attracted to the facts and circumstances of his case.

3] Having heard Mr. Singh and perused the record, it needs to be noted that the MRT, upon comparison of the pleadings in the civil suit instituted by Society and the proceedings raised by Mr. Singh before the Revenue Authority had recorded a finding of fact that the issues involved therein are substantially similar. Section 315 of the said Code deals with the jurisdiction of the MRT. The same provides that notwithstanding anything contained in Chapter XIII of this Code, or any other law for the time being in force, but subject to the provisions of this section, in cases arising under the enactment of the provisions specified in Scheduled. J, an appeal or revision, as the case may be, shall lie to the Tribunal. Section 316 of the said Code, however, provides that the Tribunal shall have no jurisdiction in any matter, which is sub-judice in a Court of law.

4] Mr. Singh is right in his submission that the MRT has a duty to satisfy itself that the matter which is sub-judice in a Court of law is substantially the same as that which a party raises before the Revenue Authority or the Tribunal. In this case, however, the MRT has undertaken such an exercise and recorded a finding of fact that the issues which have been raised by the Society in the suit are directly and substantially involved in the proceedings raised by the petitioner before the Revenue Authority/Tribunal.

5] Mr. Singh admits that he is the member of the Society, which has instituted the Suit. There is a finding of fact that the issues raised in the suit and the issues in these proceedings are substantially same. There is no case made out to interfere with such finding of fact, on grounds of either perversity or non-application of mind.

6] In the aforesaid circumstances, there is no reason to interfere with the impugned order made by the MRT. However, it is clarified that the entries in revenue record are not determinative of title to the suit properties. Ultimately, such matters shall have to be adjudicated by in appropriate civil proceedings. In this case, since the Society, of which the petitioner is a member, has already instituted a civil suit, the MRT was right in not entertaining the appeal instituted by the petitioner.

7] In the aforesaid context, it is further clarified that none of the orders made by the Revenue Authority, in the matter of Mutation shall either govern or influence the decision in the civil suit instituted by the Society. Needless to observe that the same will be decided on its own merits and in accordance with law.

8] With the aforesaid observations, this petition is disposed of. There shall be no order as to costs.

(M. S. SONAK, J.)

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