

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4341 OF 2015

Santosh Surajbhan Goyal	..	Petitioner
VS.		
The State of Maharashtra & Ors.	..	Respondents

Mr. J.S. Kapre for Petitioner.

Mr. S.D. Rayrikar, AGP for Respondent No.2.

Mr. Atul Damle, Senior Counsel i/b Prasad B. Kulkarni for Respondent No.3.

CORAM : M. S. SONAK, J.

DATE: 17th OCTOBER 2016

P.C :

1] The challenge in this petition is to the order dated 18.06.2014 made by the Hon'ble Minister (Revenue) rejecting the petitioner's Revision Petition.

2] Mr. Kapre, learned counsel for the petitioner, contends that the survey maps prepared by the Commissioner, in the present case, are improper and in any case, the same have been made in violation of principles of natural justice and fair play. He submits that the District Superintendent of Land Record (DSLRL), upon appreciation of such position, had merely remanded the matter for fresh consideration, so that effective opportunity would be availed by all parties. He submits that there was no reason for the Hon'ble

Minister (Revenue) to interfere with the DSLR's order of remand, which order had not prejudiced to the rights of either parties.

3] Mr.Damle, learned senior advocate for the Respondent points out that the petitioner has already instituted Regular Civil Suit No.574/2008 in the court of Pune. He also submitted that there was no legal infirmity in the impugned order.

4] Although, learned counsel for the petitioner may be right that there was no case made out to interfere with the DSLR's order in the exercise of revisional jurisdiction, now that the petitioner has already instituted Regular Civil Suit No. 574 of 2008, it is not necessary to permit further proceedings before the revenue authorities. It is settled position in law that the revenue authorities are not the conclusive authorities in the matters of title measurement, identity of the property etc.. Their decisions are always subject to decisions of the Civil Court. Therefore, now that the petitioner has already instituted the Civil Suit, it will be appropriate if all such issues are determined and decided in the Civil Suit, on the basis of the material produced on record by the parties and in accordance with law.

5] Learned counsel for the petitioner, however, expresses apprehension that the order impugned in the present petition or the factum that this Court is not entertaining the petition against the same might be construed as approval of the impugned order by this Court. Learned counsel for the petitioner submits that this factor might influence the Civil Court in the pending suit.

6] There is no basis for the aforesaid apprehension. In any case, it is clarified that the Civil Court will not permit itself to be influenced by any orders made by the revenue authorities or the fact that such orders have not been interfered by this Court in this petition. The Civil Court is directed to decide the Civil Suit uninfluenced by such factors and on the basis of the material which will be brought on record by the parties and in accordance with law. All contentions of all parties, including the contentions in relation to the Commissioner Report etc., are specifically kept open.

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

8] All parties to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)