IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3975 OF 2015

Mrs. Nita Parimal Shroff and anr. ....Petitioners
versus
The Sub-Divisional Officer, Thane and ors. ...Respondents

Mr. P. K. Dhakepalkar, senior counsel with Mr. Prasad S. Dani, senior counsel along with Mr. D. V. Deokar i/b. M/s. MDP and Partners, advocates for the petitioners.
Mr. A. I. Patel, AGP for the State.

CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.

DATE : 26th JULY, 2016.

P. C. :

Heard Mr. Dhakepalkar, learned senior counsel for the petitioners and Mr. Patel, learned AGP for the State.

2. By this petition under Articles 226 and 227 of the Constitution of India, the petitioners are challenging the show cause notice dated 13th March, 2015, issued by respondent No.1 – Sub-Divisional Officer, Thane. By the said notice, the petitioners along with others were asked to show cause as to why mutation entry No. 590 dated 30th May, 1956, should not be cancelled in exercise of suo moto revisional powers.

3. Normally, we would not have entertained this petition challenging merely a show cause notice. However, the facts of the

present case shows that the mutation entry itself is sought to be revised after a lapse of the period of 60 years. The law on this subject is fairly settled. A reference can be made to the decision of the ***Supreme Court in Santoshkumar Shivgonda Patil and ors. versus Balasaheb Tukaram Shevale and ors. (2009) 9 SCC 352.*** In this case, the Apex Court held that the revisional power, suo moto or otherwise, can be exercised within reasonable time. Relevant observations are made in paragraphs 11 and 12 of the said judgment which reads as under :

> *"11. It seems to be fairly settled that if a statue does not prescribe the time limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein.*
>
> *12. Ordinarily, the reasonable period within which power of revision may be exercised would be three years under Section 257 of the Maharashtra Land Revenue Code subject, of course, to the exceptional circumstances in a*

given case, but surely exercise of revisional power after a lapse of 17 years is not a reasonable time. Invocation of revisional power by the Sub-Divisional Officer under Section 257 of the Maharashtra Land Revenue Code is plainly an abuse of process in the facts and circumstances of the case assuming that the order of Tehsildar passed on March 30, 1976 is flawed and legally not correct."

4. If the facts of the present case are examined in the light of above observations, then, it is clear that respondent No.1 could not have exercised suo moto revisional power, after a lapse of 60 years. The impugned notice cannot be sustained and therefore, the same is quashed and set-aside. The writ petition stands disposed of accordingly.

5. Needless to mention that quashing of the subject notice does not preclude the Government from taking appropriate proceedings including filing of the suit. All rights and contentions of the respective parties are kept open.

(ANUJA PRABHUDESSAI, J.) **[RANJIT MORE, J.]**