

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5741 OF 2013

Jaya Jayantilal Shah .. Petitioner
VS.
The State of Maharashtra & Ors. .. Respondents

Mr. Madhav Jamdar for Petitioner.
Ms M. S. Bane – AGP for State – Respondent Nos. 1 to 4.

CORAM : M. S. SONAK, J.
DATE: 15 NOVEMBER 2016

P.C :

1] The challenge in this petition is to the orders dated 3 December 1988 and 21 June 1991 made by the Minister (Revenue) in the purported exercise of review jurisdiction under the Maharashtra Land Revenue Code.

2] Now it transpires that as against the impugned order dated 3 December 1988, the petitioner had already instituted writ petition no. 3531 of 1989. The same was disposed of on 6 February 1990. Paragraph 3, which is the operative portion, reads thus :

“3. Accordingly, petition is allowed to be withdrawn in view of the fact that Suit No. 2641 of 1987 is pending in this court for determination of title and other ancillary reliefs. It is made clear that none of the parties would rely upon any of the findings of fact regarding title and possession recorded by any of the revenue authorities in the proceedings

commenced for entering the names of the parties in the revenue record. The parties would not rely upon these findings in the suit which is filed or which may be filed by either of the parties hereafter for determining the title."

3] In view of the aforesaid, obviously, no further petition can be said to be maintainable in order to question the order dated 3 December 1988.

4] Mr. Jamdar, learned counsel for the petitioner however points out that the Minister (Revenue) by order dated 21 June 1991 has purported to review the order dated 3 December 1988. He submits that under Section 258 (5) of the Maharashtra Land Revenue Code, there is a specific bar to exercise review jurisdiction, against the order made in the exercise of review jurisdiction in the first instance. He therefore submits that the order dated 21 June 1991, to the extent, it purports to declare the respondent no. 5 society as the owner of the suit property, is without jurisdiction.

5] In view of the order made by this court in writ petition no. 3531 of 1989, there is no case made out to entertain present petition. However, admittedly, a civil suit is pending between the parties. It is settled position in law that the revenue authorities are not competent to determine or decide title of the parties. Issues of title will obviously be decided in the pending civil suit. Therefore,

none of the observations either in the orders dated 3 December 1988 or 21 June 1991, can come in the way of either of the parties, when it comes to the civil court deciding the issues of title.

6] With this clarification, the present petition is disposed of.

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

(M. S. SONAK, J.)

Chandka