

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 403 OF 2016**

M/s Ravi Developments

..Petitioners

Vs.

Smt Nanubai Bhaurao Vaity & Ors

..Respondents

**Mr. A. Y. Sakhare Senior Advocate a/w Mr. A. R. Shaikh for the Petitioners
Mr. Pradeep Havnur for the Respondent Nos.7 and 27**

**CORAM : R. M. SAVANT, J.
DATE : 24th NOVEMBER, 2016**

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 14-8-2015 passed by the Revisionary Authority i.e. the Hon'ble Minister for Revenue, Government of Maharashtra, by which order, the Revision Application filed by the Petitioners came to be rejected and resultantly the order dated 30-3-2013 passed by the Additional Commissioner, Konkan Division, remanding the matter back to the Collector Thane in terms of the observations made in the said order, came to be confirmed.

2 It is not necessary to burden this order with unnecessary details having regard to the nature of the directions which are required to be issued. Suffice it would be to state that the Petitioners herein have been granted Non-Agricultural Permission (for short N.A. Permission) in respect of the land in question by the Collector Thane vide order dated 3-9-2007. The Respondent

Nos.1 to 27 herein claim to have interest in the land in question. The Respondent Nos.1 to 7 filed an Appeal before the Additional Commissioner, Konkan Division, challenging the order dated 3-9-2007 passed by the Collector Thane. In the said Appeal, the said Respondents raised diverse contentions in so far as the grant of N.A. permission was concerned. It was the case of the said Respondents that the Petitioners have filed an application in the name of dead persons, that the construction permission in respect of the land in question has been obtained by submitting false and bogus documents. The said Appeal filed by the Respondent Nos.1 to 7 came to be allowed by the Additional Commissioner Konkan Division, by order dated 30-3-2013. Resultantly the order dated 3-9-2007 passed by the Collector, Thane came to be set aside and the matter came to be remanded back to the Collector, Thane for a denovo consideration of the application filed by the Petitioners in terms of the directions contained in the said order. The said directions were inter alia to the effect that the Collector was directed to verify the documents as regards the title to see whether a stamp duty was paid by the Petitioners and also to see whether there was violation of the Tenancy Act.

3 The Petitioners aggrieved by the said order dated 30-3-2013 passed by the Additional Commissioner, Konkan Division filed a Revision before the State Government under Section 257 of the Maharashtra Land Revenue Code. The said revision contained the grounds on which order dated

30-03-2013 was challenged. One of the grounds was that the Additional Commissioner had erred in issuing the directions that the application filed by the Petitioner before the Collector, to be decided on the touchstone of the said directions. It was averred in the revision application that in issuing the said directions, the scope of the inquiry was being widened, which was not permissible. It was also averred that since the challenge of the Respondent Nos. 1 to 7 was registered to the NA permission, the remand, if any was to be restricted to the said aspect. The Revisionary Authority, that is, the Hon'ble Minister for Revenue has by the impugned order dated 14-8-2015 rejected the Revision Application and thereby confirmed the order dated 30-3-2013.

4 Heard the Learned Counsel for the parties, that is the Learned Senior Advocate Mr. A.Y. Sakhare for the Petitioner and the Learned Counsel Mr. Pradeep Havnur for the Respondent Nos. 7 and 27. The Learned Counsel would make submissions against and in support of the impugned order dated 14-8- 2015.

5 In my view, the intervention of this Court in its writ jurisdiction is not warranted, considering the nature of the order that has been passed by the Additional Commissioner, which has been confirmed by the Revisionary Authority. However, since the grievance of the Respondent Nos. 1 to 7 was only in respect of the N.A. order, which was passed in favour of the Petitioners by the Collector, Thane. The inquiry would necessarily have to be restricted to

the said aspect, namely whether the Petitioners are entitled to the NA permission on the basis of the documents which they have filed in respect of the land in-question. The Collector, therefore, would however be entitled to go into the aspects which are incidental to the grant of NA permission but would not widen the scope of the inquiry to consider issues which do not fall in the domain of the Revenue Authorities. However so far as the stamp duty is concerned, if the Collector is of the view that the appropriate stamp duty has not been paid, the Collector can obviously refer the document to the Adjudicating Authority, that is, the Collector of Stamps for adjudication, if he so deems appropriate.

6 However, on remand, the Collector to decide the said application filed by the Petitioner latest by 31-1-2017. The parties to appear before the Collector, Thane on 5-12-2016. The Collector, Thane, may thereafter fix the schedule as per his convenience, but decide the application latest by 31-1-2017. Needless to state that the contentions of the parties are kept open for being urged before the Collector, Thane. The Collector, Thane would be well advised to pass a speaking order. The parties would be at liberty to file their replies/documents as would be directed by the Collector, Thane. By issuing the clarification and directions as above, the Writ Petition is disposed of.

[R.M.SAVANT, J]