

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION NO. 17 OF 2016
IN
WRIT PETITION NO. 2667 OF 2014

Jumbo Darshan Co-operative Hsg.Soc.Ltd.	.. Applicant/ Review Petitioner
In the matter between	
Zire Rushi Construction and anr.	.. Petitioners/ Org. Petitioners.
vs.	
The State of Maharashtra and ors.	.. Respondents

Mr. Milind Jadhav with S.K. Jain , i/b Mr. S.K. Jain & Associates for the Review Petitioner-Org. Respondent No.4.
Mr. Milind More, Addl. G.P For Respondent Nos.1 to 3.
Mr. Rajiv Narula with Mr. Bhupesh Dhumatkar i/b Jhangiani Narula & Associates for Original Petitioners.

CORAM : M. S. SONAK, J.
DATE : 14 JUNE 2016.

P.C. :-

- 1] Heard learned counsel for the parties.

- 2] Mr. Milind Jadhav, learned counsel for the review petitioner (original respondent No.4) has submitted that the order dated 19 March 2012 made by the Collector, was not at all an order made in exercise of review jurisdiction and therefore, there was no question of applicability of the provisions contained in Section 258 of the Maharashtra Land Revenue Land Code, 1966 (Code). Learned counsel submitted that the order dated 19 March 2012 was one

made for the purposes of implementation of the earlier order dated 23 December 2010. Learned counsel submitted that both the orders are statutory orders made under Sections 85 and 106 of the Code.

3] Mr Jadhav, learned counsel for the review petitioner, also submitted that the contention based upon the applicability of Section 258 of the Code was never raised by the original petitioners and the statement that the same was specifically raised in the appeal memo or revision petition, was contrary to the record.

4] Mr. Jadhav finally submitted that the aforesaid two errors constitute the errors apparent on the face of record and therefore, a case of exercise of review jurisdiction is made out.

5] Mr. Narula, learned counsel for the original petitioners-petitioners, defended the order dated 3 February 2016, *inter alia*, by pointing out that the contention to the effect that the orders impugned in this petition were without authority of law, had been specifically raised in the appeal memo and the revision petition. Further, Mr. Narula also pointed out that the submission made by and on behalf of the review petitioner was recorded in paragraph 8

of the order dated 3 February 2016 and submitted that this Court deferring to the request made by and on behalf of the respondents had specifically kept open the issue as specified in the said paragraph.

6] Upon due consideration of the contentions of learned counsel for the parties, in my opinion the grounds urged by Mr. Jadhav are not sufficient for the purposes of exercise of review jurisdiction as the order dated 3 February 2016 has been made in the context of the provisions contained in Section 258 of the Code. The interference with the impugned orders, was basically, on the ground that the Collector prior to exercise of review jurisdiction, is required to obtain sanction of the Commissioner, which, in the present case, was admittedly not obtained. Since, this was basically a jurisdictional issue, little turns upon whether there was specific reference to Section 258 of the Code in the memo of appeal or memo of revision petition. Suffice to note that the original petitioners had pleaded want of jurisdiction in the Collector, in the context of making the impugned orders.

7] The question as to whether the order dated 19 March 2012 is an order made in the exercise of review jurisdiction or not, is certainly, not a question which would give raise to an error apparent on the face of record in the facts and circumstance of the present case. At the highest, this is an arguable issue. That apart, in para 8 of the order dated 3 February 2016 is perused, it is quite clear that the apprehensions expressed by and on behalf of the review petitioner had been duly addressed and contention of respondent no.4 have not, in any manner been shut out. The liberty as prayed for by the review petitioner has also been granted.

8] In view of the aforesaid, there is no case made out to exercise review jurisdiction. This review petition is accordingly, dismissed. There shall however, be no order as to costs.

(M. S. SONAK, J.)

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