

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

949 WRIT PETITION NO.1255 OF 2013

Ramrao Shankarrao Raut ... **Petitioner**

Versus

The State of Maharashtra & others ... **Respondents**

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Mr. K.J.Suryawanshi, Advocate for Petitioner

Mr. S.W.Munde, AGP for Respondent Nos.1 to 3

Mr. R.P.Bhumkar, Advocate for Respondent No.4

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CORAM : T.V.NALAWADE, J.

DATED : 4th July, 2017

PER COURT :-

1. The petition is filed to challenge decision given by Deputy Director of Land Records, Aurangabad Division, Aurangabad in Appeal No.837/2012. Both sides are heard.

2. The aforesaid appeal was filed by respondents, challenging the order of Superintendent of Land Records. The order was made by Superintendent by presuming that, some mistake was committed during implementation of consolidation scheme. The case of respondents is that, notice of the said proceeding, decided by the Superintendent, was not given to respondents and behind the back of respondents, the correction order was made.

3. It is true that, initially the order made by the Deputy Director was set aside by this Court in Writ Petition No.5217/2011 on the ground that, the application filed for condonation of delay was not properly dealt with. After remand of matter, the Deputy Director / Appellate Authority decided the matter again, though it can be said that, the point of condonation of delay is not separately dealt with. Considering the material and rival contentions, this Court sees no reason to interfere with the said part of the order made by the Appellate Authority.

4. Learned counsel for petitioner argued on one more ground that, the order made by Superintendent on 20.11.1996 in the appeal order dated 21.02.1997 was of challenged and so the appeal itself could not have been entertained. In this regard, the submissions are made by the learned counsel for respondents that, date 21.02.1997 was the date of intimation given by the office of Superintendent and the copy of entire order was not supplied and that needs to be kept in mind. It can be said that, the intention was to challenge the order made by the Superintendent. Thus, there is no force in this ground.

5. The reasoning given by the Appellate Authority shows that, there was record of partition, *phalani* and the mutation of *Phalani* was sanctioned in the year 1970. The Appellate Authority

held that, the record of consolidation was created on the basis of *Phalani* record and so apparently there was no reason to change the record for making correction. It can be said that the matter was not decided on merit by the Superintendent. So, petitioner and respondents can put up their respective cases before the Superintendent to get decision on merit. Once the dispute was taken before the Civil Court and Civil Court has given decision on merit in the said suit. Ordinarily, the point of title can be decided by Civil Court and thus the said point will have to be considered by the Superintendent of Land Records.

6. In view of these circumstances, this Court holds that, no fault can be found in the order of Appellate Authority by which the matter is remanded back to the Superintendent of Land Records. To see that, the dispute is decided earlier in time, this Court holds that, directions can be given to Superintendent of Land Records to take decision within three months from the date of this order.

7. Petition is dismissed by giving direction to Superintendent of Land Records to take decision within three months from the date of this order. All points are kept open.

(T.V.NALAWADE, J.)

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