

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10748 OF 2017

HAJI A SHAKUR AYYUB KACHCHI & ANR
VERSUS
THE STATE OF MAHARASHTRA & ORS

...
Advocate for Petitioners : Shri Syed G.R.
AGP for Respondents 1 to 4 : Shri Tambe S.K.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 22, 2017
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PER COURT :-

1. Leave to add prayer seeking quashing of the order dated 30.11.2016 passed by the DSLR, directing the Deputy SLR to conduct an enquiry.
2. Addition be carried out forthwith.
3. In identical set of facts, in a group of Writ Petitions Nos. 11502 of 2016 and others, this Court has set aside identical orders of the DSLR, by it's order dated 2.8.2017.
4. In the instant case, pursuant to the order of the DSLR dated 30.11.2016, the impugned order, dated 17.1.2017 has been passed by the Dy. SLR under the directions of the DSLR

vide the above said order. Considering the scope of Section 258 of the Maharashtra Land Revenue Code and the specific allegations alleged by the identically placed petitioners in the earlier petitions, this Court has issued the following directions in it's order dated 2.8.2017 in paragraph Nos.18 and 19 as under:-

"18. Considering the above, all these petitions are partly allowed.

19. The impugned orders set out in the prayer clause in the petitions dated 29.9.2015, 19.11.2015, 30.11.2015, 3.12.2015 and 21.12.2015 are quashed and set aside. All these appeals which have been suo motu moved by the DSLR, Parbhani owing to the direction of the Collector, Parbhani dated 25.1.2015, shall be considered afresh by the respondent No.1, DSLR under the following directions:-

(a) Whether the said proceedings are for reopening the claims of the petitioner to the lands and the constructions erected thereon in survey No.2 ?

(b) If yes, whether the respondent No.1 can initiate such an action under section 141 to 148 of MLR Code ?

(c) Whether the DSLR intends to restrict the matters only to rectify clerical mistake under

section 258 of the MLR Code ?

(d) Whether section 258 of the MLR Code does not give any power to the revenue authorities to cause a roving enquiry into the title of person, who is possessing the property record card (PR Card)/city survey ?

(e) Whether section 28 permits rectification of clerical mistakes and does not permit reopening of the issue by which the revenue authorities can endeavor to decide the title of a party ?

(f) Whether the District Superintendent of Land Records cannot suo motu initiate an enquiry under section 148 to 154 of the MLRC under the guise of exercising his powers under section 258 of the MLR Code ?

(g) When the City Survey records were crystallized in 1981, whether proceedings at the behest of the local MLA can be initiated by the revenue authorities under section 258, after a passage of 33 years."

5. Considering the above, this petition is allowed. The impugned orders dated 30.11.2016 and 17.1.2017 are quashed and set aside. The proceedings in Appeal / SR 41/15 are restored to the file of the DSLR Parbhani. Considering that the litigating

sides are agreeable to appear before the DSLR on 29.9.2017, the respondent No.3 need not issue formal notices.

6. The directions issued earlier as reproduced in paragraph No.19 above shall also be applicable in this case. After the parties appear at 11.00 am on 29.9.2017, they shall cooperate in the hearing of this matter and respondent No.3 shall not be influenced by any pressure exerted by any person and shall decide the matter on its merits afresh. A reasoned order is naturally expected. The litigating sides are at liberty to submit their written notes of submissions along with the copies of the judgment to be cited.

7. This petition is allowed in the above terms.

(RAVINDRA V. GHUGE, J.)

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akl/d