

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO.4625 OF 2017

Bhupendra Rajaram Gupta and anr. : Petitioners
versus
Smt. Sakhubai Shankar Ghatal and ors. : Respondents.

Mr. Sachin Dhakephalkar for the Petitioners.
Mr. Abhijeet Kadam for the Respondent Nos.1 to 4.
Mr. S D Rayrikar, AGP, for the Respondent Nos.5 to 8.

CORAM : R. M. SAVANT, J.
DATE : 20th February 2017

P.C.

1 The order dated 19/01/2017 passed by the Revisionary Authority i.e. the Hon'ble Minister for Revenue, Government of Maharashtra rejecting the application for say filed by the Petitioners herein is taken exception to by way of the above Petition.

2 The Revision Application filed by the Petitioners before the State Government is against the order dated 13/11/2013 passed by the Additional Commissioner, Konkan Division allowing the revision application filed by the Respondent Nos.1 to 4 which revision application arose out of the proceedings filed by the Respondent Nos.1 to 4 for restoration of the land in question to them under Section 5 of the Maharashtra Restoration of Lands to Scheduled Tribes Act. Initially the application filed before the Sub Divisional Officer came to be filed by the SDO Borivali on 04/09/2006. Thereafter the Petitioners

herein filed an appeal before the Deputy Collector (Appeals) Mumbai Suburban District, Mumbai which came to be allowed by the order dated 03/03/2010. Thereafter the Respondent Nos.1 to 4 filed a revision application before the Additional Commissioner, Konkan Division which revision came to be allowed and resultantly the order passed by the Deputy Collector came to be set aside. The application for stay has been rejected by the 2nd Revisionary Authority principally on the ground that the possession of the land in question has already been taken on 05/08/2016.

3 However, a perusal of the possession receipt executed on 05/08/2016 between the Revenue Officials and the Respondent Nos.1 to 4 indicates that only paper possession has been taken which is recorded in the said possession receipt. The Tahasildar, Borivali vide his letter dated 27/07/2016 which is prior to the date of taking possession has also informed the Collector, Mumbai District Suburban, Mumbai that the land would have to be measured and demarcated and thereafter only possession can be handed over. The said procedure does not seem to have been followed by the authorities below prior to even handing over the paper possession on 05/08/2016.

4 The Respondent Nos.1 to 4 have filed their affidavit before the Tahasildar which seems to have been executed on 28/07/2016 before Advocate

Shri I A Khan – a Notary Public Government of India wherein the Respondent Nos.1 to 4 have stated that on 05/08/2016 only paper possession was handed over. They have further stated that the land is completely occupied by slums and that they are not in possession nor do they have any structure of their on the land in question. The said fact therefore indicates that the land in question is presently occupied by slums and probably for the said reason that only paper possession was handed over on 05/08/2016.

5 In my view, having regard to the facts as aforesaid, it would be just and proper that pending consideration of the revision application filed by the Petitioners, status quo as on date is directed to be maintained on the site in question. The revisionary authority may hear and decide the revision application expeditiously and not later than 31/05/2017. With the aforesaid directions, the above Writ Petition is disposed of.

[R.M.SAVANT, J]