IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9486 OF 2017

Versova Janakdeep CHS Ltd. ....Petitioner
Vs.
The Additional Commissioner
Konkan Division & Ors. ....Respondents

....

Mr. D.S. Sakhalkar i/b. M.S. Moily for the Petitioner.
Ms. M.S. Bane 'B' Panel counsel for the State.

CORAM : A.S. GADKARI, J.
DATE : 31st AUGUST 2017

P.C.:

1. The petitioners' society has invoked the jurisdiction of this Court under Article 227 of the Constitution of India impugning orders dated 19.10.2016 passed by the Additional Commissioner, Kokan Division, Mumbai in Appeal/Desk 1/ND/22/2016; dated 06.10.2015 in Appeal No.C/LND/Admn.A-08/2015 passed by the Dy. Collector (Appeals) and dated 04.01.2014 passed by the Hon'ble Minister Revenue Department, Government of Maharashtra in Land 2612/Mantri 2652/P.K.62/J-3.

2. The record indicates that the buildings of the petitioners' society are constructed on a piece of land admeasuring 5390.3 sq.mtrs lying and situated at Survey No.121, CTS No.1176 of village Versova,

Taluka Andheri, Mumbai Suburban District belonging to Bombay Housing Corporation. The said land was being used unauthorizedly for non-agricultural i.e. for residential and commercial purpose since 01.08.2001. The Additional Tahsildar issued notice dated 17.03.2008 to the petitioner calling upon them as to why the petitioners' society should not be imposed with penalty/fine 40 times of non-agricultural assessment/Annual Assessment of the said land. By an order dated 29.03.2008 the Additional Talsildar (N.A.), Andheri held that the petitioners' society unauthorizedly converted the use of land into non-agricultural and ordered the petitioner to pay a fine equal to 40 times of the non-agricultural assessment.

3. Feeling aggrieved by the said order, the petitioner preferred an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 before the Additional District Dy. Collector i.e. respondent No.3 bearing No.ADC/Appeal/Janak Deep S.Hsg./3/10. Respondent No.3, after hearing the parties, by its order dated 15.02.2012 modified the order passed by respondent No.4 dated 29.03.2008 and reduced the levy of fine to 10 times of Annual Assessment.

4. Feeling aggrieved by the said order dated 15.02.2012, the petitioner without preferring further appeal before the Collector Mumbai or Additional Commissioner, Kokan Division, directly preferred

an appeal before the State Government bearing No.Land 2612/Mantri 2652/P.K.62/J-3. The Hon'ble Minister, Revenue Department by its Order dated 04.01.2014 rejected the said appeal on the ground that respondent No.3 i.e. Additional District Dy. Collector, Mumbai Suburban District has already taken into consideration the necessary and relevant aspect of the matter and has reduced the fine from 40 times to 10 times.

5. The record further indicates that the petitioner thereafter preferred an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 before the Deputy Collector (Appeals) Mumbai, which came to be dismissed on the ground of delay in preferring the said appeal. The petitioner, thereafter, preferred further appeal before the Additional Commissioner, Konkan Division Mumbai under Section 247 of the Maharashtra Land Revenue Code, 1966, which also has been dismissed by an order dated 19.10.2016 on the ground of delay of 3 years.

6. Be that as it may, perusal of the record would clearly indicate that the order dated 29.03.2008 passed by the Additional Talsildar (N.A.), Andheri thereby imposing annual assessment for unauthorized non-agricultural use of the said property has been modified and the said penalty was reduced to 10% / 10 times by

respondent No.3 i.e. Additional District Dy. Collector by its order dated 15.02.2012. Respondent No.6 after taking into consideration all the necessary and relevant aspects of the matter has rejected the application of petitioner by its Order dated 04.01.2014.

7. After perusing the entire record, I find no error or illegality in the orders passed by respondent No.3 dated 15.02.2012 and respondent No.6 dated 04.01.2014. There is concurrent finding recorded by both the authorities below. There is no error or illegality in it.

8. The present petition being devoid of merits is accordingly rejected.

(A.S. GADKARI, J.)