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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5987 OF 2015

Aashish Vijay Bhansali & Ors. 2 ...Petitioners
Vs.
State of Maharashtra & Ors. ...Respondents

Mr. Sandeep D. Paigude, Advocate for the Petitioners
Mrs. V.S. Nimbalkar, AGP for Respondent Nos. 1 & 2
Mr. Jaydeep Deo i/b. Mr. Mohan Devkule, Advocate
for Respondent Nos. 9 to 18
Mr. Vijay S. Gharat, Advocate for Respondent No.3

CORAM : M.S. KARNIK, J.
DATED :10TH APRIL, 2017

P.C. :

1. The Petitioner by this Petition challenges an order dated 29th May, 2015 passed by the Secretary and Officer on Special Duty (Appeals) (hereinafter referred to as Secretary & OSD for short) whereby the revision filed by Respondent Nos. 9 to 18 came to be allowed and thereby the orders passed by the Additional Commissioner Pune, Additional Collector Pune and the Sub-divisional Officer Mawal were set aside. The consequence of setting aside these orders is the confirmation of mutation entry Nos. 8352 and 988. This in favour of Respondent Nos. 9 to 18.

Admittedly the Petitioners are not parties in the proceedings before the Revenue Authorities.

2. Before the Secretary & OSD the Respondent Nos. 9 to 18 filed an Appeal challenging the order passed by the Revenue Commissioner. According to the Petitioners the said Appeal is not tenable under Section 257 of the Maharashtra Land Revenue Code, 1966.

3. When the Appeal was filed by Respondent Nos. 9 to 18 against the order dated 22nd August, 2013 passed by the Additional Commissioner, Pune, the State Government delegated the Appeal to be heard by the Secretary and OSD. An objection came to be raised that the Appeal is not maintainable.

4. In view of the Petitioners objection the Secretary & OSD later-on converted the Appeal into Revision. Learned Counsel for the Petitioner submits that the Secretary & OSD was not competent to allow such a conversion. Adopting such a course virtually amounts to institution of the Revision in the first instance before the

Secretary and OSD which is without jurisdiction and not permissible so the learned Counsel submits. According to the learned Counsel the Respondent Nos. 9 to 18 ought to have instituted a Revision before the State Government and it is only thereafter the Revision could be delegated to the Secretary and OSD for hearing. Therefore, the procedure followed by the Secretary and OSD in allowing the conversion of the Appeal to Revision and the hearing of the Revision as such is without any authority of law and is contrary to the provisions of Section 257 of the Maharashtra Land Revenue Code, 1966.

5. The Respondent State Government has filed an affidavit dated 31st August, 2016 and has placed reliance on a standing order dated 22nd November, 2013 whereby the power of hearing an Appeal / Revision has been delegated to the Secretary and OSD.

6. There is no dispute that the Appeal has since been converted and heard as a Revision by the Secretary and OSD. It is also not disputed that the Secretary and OSD is competent to hear the Revision. In the present fact situation therefore, if against an order

passed by the Additional Commissioner, the Revision has been heard by the Authority competent to hear the Revision I do not find any reason to interfere with the impugned order, more so when the Appeal was instituted before the Competent Authority. Pursuant to the delegation of the Appeal the same has been heard as a Revision by the Competent Authority.

7. The order impugned in any case is an order passed in the course of Revenue proceedings where the Secretary and OSD has confirmed the mutation entry Nos. 8352 and 988. It is a settled law that the mutation entries do not confer or extinguish the right, title or interest in the properties. Respondent Nos. 9, 11, 12, 13 and 14 (heirs of Respondent No.10) have filed a suit against Respondent No.3 for declaration and injunction and the same is pending.

8. The learned Counsel for the Petitioners fairly states that even the Petitioners are now impleaded as the party Respondents in the said Suit. In this view of the matter I am not inclined to interfere with the impugned order. The Revenue entires will obviously be subject to the outcome of the decision in Regular Civil Suit No.30 of

2009 (Exhibit-M) before the Civil Judge (J.D.) Ghodnadi, Shirur, Pune or in any proceedings which the Petitioners institute.

9. In this view of the matter I am not inclined to interfere with the impugned order. Subject to what is observed herein above the Writ Petition stands rejected.

10. Needless to mention any observations made in this order are restricted to the challenge of the Revenue entries and all contentions as regards the right, title and interest of the parties in the property are kept open.

(M.S. KARNIK, J.)