

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

**WRIT PETITION NO.8436 OF 2016**

**Arvind Nivrutti Tingare  
(deceased through LR's)**

**Smt. Surekha Arvind Tingare and others**

**..Petitioners**

**Versus**

**State of Maharashtra and others**

**..Respondents**

**Mr. V. D. Patil i/by Mr. K. U. Patil for the Petitioners.**

**Mrs. V. S. Nimbalkar, AGP for the Respondent Nos.1 to 4.**

**Mr. Jaydeep Deo for the Respondent Nos.5, 10 and 11.**

**CORAM : R. M. SAVANT, J.**

**DATE : 17<sup>th</sup> JANUARY, 2017**

**PC.**

1           The Respondent Nos.5, 10 and 11 who are the main contesting Respondents in the context of the challenge raised in the above Petition are represented by Mr. Jaydeep Deo. Hence the Petition can be proceeded with and the need to serve the Respondent Nos.6 to 9 is obviated.

2           The writ jurisdiction of this Court is invoked against the order dated 06.06.2016 passed by the Principal Secretary and Officer of Special Duty (Appeals and Revisions) Government of Maharashtra. By the said order, the application for amendment of the proceeding filed by the Petitioner was rejected as also the Appeal itself was rejected on the

ground that it was not maintainable under Section 248 of the Maharashtra Land Revenue Code, 1966 (For short "MLRC").

3           The genesis of the proceedings lie in the mutation entry which was effected in favour of the Petitioner herein by the Circle Officer which resulted in the Respondent No.5 herein i.e. original owner who also lays a claim to the said property on the basis of a document executed by the original owner in his favour which he claims to be prior in point of time to the document of the Petitioner. The Appeal filed by the Respondent No.5 came to be allowed by the Sub Divisional Officer and the Mutation Entry No.1877 came to be set aside. The Petitioner aggrieved by the said order passed by the Sub Divisional Officer challenged the same before the Additional Collector, Pune, who allowed the Appeal filed by the Petitioner and set aside the order passed by the Sub Divisional Officer and thereby reinstated the Mutation Entry No.1877. Aggrieved by the order passed by the Additional Collector, Pune, the Respondent No.5 filed a Revision before the Additional Commissioner, Pune. The Additional Commissioner allowed the Revision by order dated 10.10.2013. Aggrieved by the said order dated 10.10.2013, the Petitioner herein filed an application styled as an Appeal before the State Government. In the said application he filed an application for amendment of the said Appeal so as to join the

Respondent Nos.10 and 11 who are the purchasers from the Respondent No.5 as party Respondents to the said Appeal. As indicated above, the said application for amendment as also the Appeal itself came to be dismissed on the ground that the same was not maintainable under Section 248 as the Petitioner had already exhausted two Appeals which were permissible under the MLRC. By the amendment sought, the Petitioner has sought conversion of the Appeal into Revision. Hence the order passed by the Principal Secretary and Officer on Special Duty is on the premise that an Appeal was not maintainable under Section 248 of the MLRC and not on merits. In my view, having regard to the said position and with a view to give an opportunity to the Petitioner to challenge the order passed by the Additional Commissioner on merits, it would be just and proper to permit the Petitioner to file a Revision under Section 257 of the MLRC, rather than remitting the matter back to the Principal Secretary and Officer on Special Duty and allow the Petitioner to amend the said proceedings. Hence the Petitioner would be at liberty to file a Revision before the State Government, in which Revision the amendment sought can be incorporated by the Petitioner. On such a Revision being filed within a period of three weeks from date and copy of the same served on Mr. Jaydeep Deo appearing for the Respondent Nos.5, 10 and 11, the Revisionary Authority is directed to hear and decide the

Revision expeditiously and not later than three months of the parties appearing before the Revisionary Authority.

4           Needless to state that the Revision Application would be adjudicated on its own merits and in accordance with law uninfluenced by the impugned order dated 06.06.2016. In the event, the issue of limitation arises in view of the fact that the Petitioner was prosecuting the Appeal before the State Government, the delay would not come in the way of the Petitioner from prosecuting the Revision Application. The Learned Counsel Mr. Jaydeep Deo fairly concedes to the aforesaid position. The Petition is allowed to the aforesaid extent and is accordingly disposed of.

5           Parties to act on a copy of this order duly authenticated by the Court Shirestedar.

**[R.M.SAVANT, J]**