

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12806 OF 2017

Mahesh Ramchand Chabria & Ors. .. Petitioners
Versus
City Survey Officer & Ors. .. Respondents

Mr. S.P.Kanuga i/b. Sapna Nath for petitioners
Mr. R.S.Pawar for respondent Nos. 1 to 3

CORAM : SHANTANU S. KEMKAR &
G.S.KULKARNI, JJ.

DATE : 7th December 2017.

P.C.

The challenge in this petition is to the order passed by the City Survey Officer – respondent No.1 dated 22nd August 2017. According to the petitioner, the impugned order has been passed by the respondent No.1, reviewing its earlier order passed way back on 11th January 2007, without issuance of notice and affording opportunity of hearing to him.

2] The operative paragraph of the impugned order reads as under:-

“ Order:

- (1) As the land allotment survey vide Very urgent S.R.No.57/2005 at City Survey Ulhasnagar is defective, cases of S.R.No.57/2005 dated 16.1.2006 are being cancelled;
- (2) Mutation entries No.122/2006 to 126/2006 on the original property cards of C.T.S.No.23734A, 23734B, 23740A, 237440B, 23471 and 23753 are being cancelled;
- (3) property card in respect of C.T.S.No.23734B has been wrongly opened and therefore the same is being cancelled and on the property cards in respect of C.T.S.Nos. 23734A, 23740A, 23741 and 23753 name of Government of Maharashtra, areas and tenure are being revived;
- (4) This decision be conveyed to all concerned.”

3] A perusal of the entire impugned order makes it clear that before passing the said order, no notice or opportunity of hearing was ever afforded to the petitioner, thus the order clearly violates the principles of natural justice. Normally, we would not have interfered with the order, as the appellate remedy is available to the petitioner under the Land Revenue Code. But, having noticed the fact that there is blatant violation of the principles of natural justice, we are interfering into the matter as it is clear that no notice and opportunity of hearing has been given to the petitioner and the

impugned order was passed reviewing the order which was passed as far back as about 11 years.

4] As a result, we allow this petition and set aside the impugned order and remand the matter back to the first respondent. The first respondent is directed to issue notice to the petitioner as also to the complainant or any other interested party and after giving opportunity of hearing to them take a fresh decision in accordance with law as expeditiously as possible.

5] All contentions of parties are kept open.

6] Petition disposed of in the aforesaid terms.

(G.S.KULKARNI, J)

(SHANTANU S. KEMKAR, J.)