

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITIONER NO. 1857 OF 2018

LAXMIBAI BABURAO WAKADE
THROUGH HER POWER OF ATTORNEY
DIPAK BABURAO PATIL WAKADE
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Shri R.S. Deshmukh.
AGP for Respondent Nos. 1 to 7 : Shri V.S. Badakh.
Advocate for Respondent No. 8 : Shri A.A. Khande.

CORAM : RAVINDRA V. GHUGE, J.

Dated : 15th February, 2018

PER COURT :

1. Before this matter could be heard on its merits, learned counsel for the Caveator/respondent No. 8, who is the contesting respondent, relies upon the judgment of the Hon'ble Apex Court in the matter of **Gurudassing Nawoosing Panjwani Versus State of Maharashtra and others [2015 AIR SCW (S.C.) 6277]**, to point out that the Hon'ble Apex Court, in identical set of facts, has concluded that there is a statutory remedy available under Section 257 of the Maharashtra Land Revenue Code, and in the fitness of things, a litigating party should avail of such remedy before approaching this Court under its supervisory and revisionary jurisdiction.

2. Paragraph No. 32, of the Gurudassing's judgment (Supra), reads as under :

“32. Considering the entire scheme of the Code, and the provisions contained in Sections 257 and 259, we are of the definite opinion that the Minister concerned of the State Government can entertain second revision to satisfy the legality and propriety of the order passed by the Revenue Officer. The Division Bench of the Bombay High Court has elaborately discussed the question and passed the impugned order holding that Section 257 confers jurisdiction to the State Government to entertain its revision against the order passed by any Revenue Officer either in appeal or in revision. We find no infirmity in the impugned order passed by the High Court. Hence, this appeal has no merit which is accordingly dismissed.”

3. Learned counsel for the petitioners submits that all throughout, in so far as the mutation entry at issue is concerned, she was under protection of the authorities at different levels. From 2001 onwards, continuously the petitioner has been protected. If the said protection

is continued for a period of three weeks, the petitioner would avail of the remedy under Section 257, by filing the Second Revision along with an application for interim protection.

4. Learned counsel for the Caveator, though has resisted the said request and prays that no protection be granted, I find that when the petitioner is under protection and had not suffered the consequences flowing from the mutation entry carried out on 21/12/2001, it would be equitable to continue the said relief for a further period of three weeks, on the condition that the petitioner would prefer her second revision on/or before 03/03/2018.

5. As such, this petition is disposed off. The interim protection to continue till 09/03/2018, so as to enable the petitioner to file the revision petition with an application for interim protection which the second revisional authority would consider after hearing all the sides on its own merits and without getting influenced by the observations made by this Court in this matter.

6. Since, both the learned advocates jointly pray that

the stay application may be directed to be decided within a particular period, it would be fruitful for the concerned second revisional authority to decide the said application within a period of four weeks from the date of its filing, subject to any interim arrangement.

7. After the application for interim relief is decided, the Hon'ble Minister should endeavor to decide the proceedings finally within a period of six months.

(RAVINDRA V. GHUGE, J.)

S.P.C.