

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD***

907 WRIT PETITION NO.12686 OF 2018

Dagdu Awadaji Naikwadi Through Lrs.
Ganpat Dagadu Naikwadi and others.

Petitioners.

Versus

The State of Maharashtra and others.

Respondents.

...

Advocate for Petitioners : Mr. Kakade N.K.

AGP for Respondents: Mr. S W Munde

Advocate for Respondent 4, 5 : Mr. Deshmukh Mahesh S. And Adv
Shinde Digambar B.

Coram : N.M. Jamdar, , J.

Dated : 11 December 2018

...

ORAL ORDER :-

Heard learned counsel for the parties.

2. This petition arises from the proceedings under the provisions of the The Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. The petitioners had earlier approached this Court by way of writ petition no.7928/2016 which was disposed of by the following order.

“1. For the reasons recorded herein above, the petition stands allowed in terms of prayer clause “B”.

2. The parties hereto are directed to appear before the Settlement Commissioner Viz. Deputy Director of Land Records, Nashik on 11 December 2017.

3. The said authority shall make available all the relevant reports and papers to the respective parties for inspection, upon their application and payment of usual charges/copying charges.

4. The said Authority is further directed to deal with the issue of limitation, the issue of no objection by respondent no.4 while dealing with the claim of respondents herein.

5. The authority is expected to decide the proceedings without being influenced what has been observed here in above.

6. The said authority shall make every endeavor to conclude the proceedings within six months from the date of receipt of this order.”

3. The learned counsel for the petitioners makes a grievance that, inspite of the remand on specific issue to the respondent no.2 Deputy Director of land Records to consider the aspect of delay, the authorities have side stepped the issue and has looked into the dispute on the merits which is not permissible. He states that this order has been confirmed by the Hon'ble Minister in the revision.

4. Learned counsel for respondent no. 4 and 5 states that the authorities have also not looked into the other observations by this

court contained in paragraph no.6 of the order, regarding No Objection.

5. Learned counsel for the petitioners and learned counsel for respondent nos. 4 and 5 states that the petition can be disposed of by following directions and no reason is recorded in support of the same as any observations in this order may prejudice the rival contentions. Learned counsel for the petitioners states that as far as respondent nos. 6 to 11 are concerned, for the purpose of the present petition and the order that is proposed to be passed by consent, their presence is not required and seeks leave to delete respondent nos. 6 to 11. Leave granted. Amendment to be carried out forthwith.

6. Accordingly, by way of consensus, writ petition is disposed of by following order.

O R D E R

- (a) The impugned orders passed by the respondent no.2 Deputy Director of Land Records dated 29 June 2018 and the order passed by the Hon'ble Minister dated 9 October 2018, are quashed and set aside.
- (b) The proceedings stands restored to the file of Deputy Director of Land Records.

(c) The Deputy Director of Land Records will decide the appeal in the light of the observations and the directions of this Court in Writ petition No.7928 of 2016 which order has been reproduced as above.

(d) All contentions of the parties are kept open.

(e) It is informed that, the draft scheme is in process. The same may not be proceeded further till the disposal of the proceedings by the Deputy Director of Land Record.

7. The parties will appear before the Deputy Director of Land Records on 20 December 2018. The Deputy Director of Land Records will make an endeavor to dispose of the appeal within a period of six months from the date of appearance of the parties before it, subject to earlier time bound commitments.

8. Writ Petition is disposed of in above terms.

(N.M. Jamdar, J.)

...