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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1259 OF 2015**

Kanubhai Sajjanwala @ Shailesh
Chabildas Sajjanwala & ors.

..Petitioners

Vs.

Dilip Ramchandra Boravke (since deceased)
through his heirs and LRs.

..Respondents

....

Mr. S.G. Karandikar for the petitioners.

Mr. A.B. Kadam, AGP for respondent No.6

Mr. S.R. Borulkar I/b. Sainand Ghaugule for respondent No.1(a)
(g).

Mr. Sharad S. Pawar, Asst. Section Officer, Revenue & Forest
Department, Mantralaya.

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CORAM : M.S.KARNIK, J.

DATE : 4th DECEMBER, 2018.

P.C. :

The petitioners take an exception to an order dated 27/8/2014 passed by the Hon'ble Revenue Minister allowing the Revision filed by the respondent No.1. Learned Counsel for the petitioners assailing this order submits that the order is ex-facie erroneous and contrary to the principles of natural justice. He invites my attention to paragraph 4 where it is recorded that during the course of hearing of Revision on 24/7/2014, the copy

of the Revision Application was served on the petitioners. The petitioner (original respondent No.2 in Revision) was given eight days time to file written arguments. The written notes of arguments are filed within the period of eight days.

2. Learned Counsel for the Petitioners' contention is that having received copy of the Revision only on 24/7/2014, the petitioners did not get any opportunity to make their oral submissions. Without giving an opportunity to the petitioners to go through the Revision Application and hearing the petitioners, the Hon'ble Minister only permitted the petitioners to file written arguments within 8 days. Further contentions are raised that in the cause title of the Revision Application in the array of applicants, the applicant No.2, 3 and 4 are shown without any authority from them. Shri Karndikar points out that the revision applicant No.2 was the original owner from whom the petitioners as well as the respondent No.1 purchased the suit property which resulted in the dispute. The revision applicant Nos. 3 and 4 are Talathi and Circle Officer who could never

have been the applicants. In any case he submits that the revision applicant Nos.2, 3 and 4 are arrayed without their authority or consent.

3. Learned Counsel for the petitioners fairly submits that in the event this Court is inclined to remit the matter back to the Hon'ble Minister for a fresh hearing, he would not insist for changes to be made in the revenue records consequent to the setting aside the order passed by the Hon'ble Minister. He submits that he will be satisfied if the changes are effected in the revenue records only after the decision of the Hon'ble Minister made afresh pursuant to this remand.

4. Per contra, Shri Borulkar, learned Counsel for respondent No.1 submits that there is obviously an error in the cause title of the Revision Application while impleading applicant Nos.2, 3 and 4. Shri Borulkar further submits that the petitioners have been given adequate opportunity of dealing with the Revision Application and in fact the petitioners have

filed written notes of arguments. Learned Counsel further submits that pursuant to the filing of this Petition, the order passed by the Hon'ble Minister has already been implemented and the necessary changes in terms of the order passed by the Hon'ble Minister are made in the revenue records. He supports the order passed by the Hon'ble Minister.

5. Heard. In the morning session, learned AGP was directed to call for the records. On going through the records, it appears that though notices were served on the petitioners to appear before the Hon'ble Minister on 24th July, 2014, the copy of the Memo of Revision Application was in fact served on the petitioners only on 24th July, 2014. On that date the petitioners were given eight days time to file written arguments. The petitioners had sought time as it was the first date of appearance and as the copy of the Revision was served only on that date. It is obvious that the petitioners were not heard by the Hon'ble Minister but were only called upon to submit written arguments within 8 days. The petitioners should have been granted

reasonable time to go through the Revision Memo for enabling them to make their oral submissions. In my opinion, calling upon the petitioners to submit their written arguments within a period of eight days without granting sufficient time to the petitioners to make oral submissions after receipt of the Revision Memo amounts to breach of the principles of natural justice. The impugned order therefore deserves to be set aside. Hence the following order :

ORDER

1. The impugned order dated 27/8/2014 passed by the Hon'ble Minister at page 81 of the Petition is set aside.
2. The matter is remitted back to the Hon'ble Minister for hearing the Revision afresh in accordance with law.
3. The parties are directed to appear before the Hon'ble Minister on 20th December, 2018, at 3.00 p.m. for fixing further schedule of the hearing.
4. The Revision be decided as expeditiously as possible after hearing all concerned and in any event within the period of 12 weeks from 20th December, 2018.

5. Needless to mention that the changes made in the revenue records pursuant to the implementation of the impugned order passed by Hon'ble Minister to remain unaffected presently. As and when the fresh decision is taken, consequential changes obviously will be made in the revenue records in terms of the Hon'ble Minister's order.

6. The Writ Petition is partly allowed and disposed of on the above terms.

(M.S.KARNIK, J.)