

Anand

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

WRIT PETITION NO. 6142 OF 2013

Popat Hariba Jagtap .Petitioner

Vs.

Sanjay Ratan Shelar & ors. .Respondents

**WITH
WRIT PETITION NO. 6445 OF 2013**

Balu Mahadeo Jagtap .Petitioner

Vs.

Sanjay Ratan Shelar & ors. .Respondents

Mr. Nitin Dalvi, Advocate, for the Petitioners

Mr. Nitin Deshpande, Advocate, for the Respondent Nos. 1 & 2

Mr. S. D. Rayarikar, AGP, for the Respondent No. 3 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 24.08.2018

P.C.

. Heard learned counsel for the parties.

2. Rule. Rule is made absolute with the consent of the parties and is taken up for final disposal forthwith.

3. By these Petitions, the Petitioners have impugned the Order dated 14.06.2012 passed by the Hon'ble Minister of State for Revenue, Mantralaya, Mumbai in RTS. No. 3709/PK.549/L-6 only to the extent of the observations made in para 4 of the said order. Mr.Dalvi, learned counsel for the Petitioners submits that he is aggrieved by the observations made by the Hon'ble Minister of State for Revenue, Mantralaya, Mumbai in para 4 of the impugned order dated 14.06.2012. Mr. Deshpande, learned counsel for the Respondent Nos. 1 & 2 submits that the observations made in para 4 are only prima facie & not final. He submitted that no interference was warranted in the impugned Order dated 14.06.2012.

4. Perused the papers. It appears that the Sub Divisional Officer (SDO) had passed an order on 04.03.2005, on the Petitioners' Application. The said order was challenged by the Respondent No. 1 before the Additional Collector. The Additional Collector vide Order dated 06.09.2005 remanded the matter back to the Sub Divisional Officer (SDO). Being aggrieved by the said

order of remand passed by the Additional Collector dated 06.09.2005, the Petitioners herein filed a Revision Application before the Additional Commissioner, Pune Division, Pune. The Additional Commissioner was pleased to set aside the order of the Additional Collector and as such confirmed the order passed by the Sub Divisional Officer. The said order was challenged by the Respondent No. 1 before the Hon'ble Minister of State for Revenue. The Minister of State for Revenue was pleased to partly allow the Appeal filed by the Respondent No. 1, inasmuch as, the matter was remanded back to the Sub Divisional Officer for fresh enquiry. The Petitioners are mainly aggrieved by the observations made in para 4 of the impugned order passed by the Minister of State for Revenue, whilst remanding the matter.

5. Needless to state, that the observations made in the impugned order are prima facie & not final. Hence, no interference is warranted in the impugned order, remanding the matter to the SDO. The Sub Divisional Officer before whom the matter is remanded will consider the Application on its own merits afresh uninfluenced by any of the observations made either

by the Minister of State for Revenue or any of the earlier orders passed by the authorities. Accordingly, the Petitions are disposed of with the aforesaid observations on the following terms & conditions :-

O R D E R

(i) Both the parties i. e. the Petitioners and the Respondent Nos. 1 & 2 to appear before the Sub Divisional Officer, MHADA Sub Division, Kurduwadi, Solapur **on 03.09.2018 at 11.00 a. m.** , after which the Sub Divisional Officer will give dates convenient to him;

(ii) The Sub Divisional Officer shall dispose of the said Application as expeditiously as possible and in any event **on or before 31.10.2018;**

(iii) The Sub Divisional Officer shall decide the Application on its own merits uninfluenced by any of the observations made either, by the Minister of State for Revenue or the earlier orders passed by the authorities;

(iv) Parties shall maintain status-quo till the Application is finally disposed off by the Sub Divisional Officer.

All contentions of both the parties are kept open.

Rule is made absolute in the aforesaid terms.

6. The Petitions are disposed off accordingly.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)