

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8303 OF 2018

Prakash Madhukar Deshpande ...Petitioner
vs.
State of Maharashtra & Ors. ...Respondents

Mr.Prakash Madhukar Deshpande the Petitioner in person
Mr.Y.S.Khochare, AGP for the respondent Nos.1 to 9.

CORAM : A.S.OKA, &
M.S.SONAK, JJ.
DATE : OCTOBER 4, 2018

P.C.:

1 Heard the petitioner in person. The petitioner appearing in person has filed a second Revision Application bearing No.Pune/RTS Revision/00386/2017 before the Additional Divisional Commissioner by invoking section 257 of the Maharashtra Land Revenue Code,1966 (for short 'the said Code'). In this petition under Article 226 of the Constitution of India, the petitioner has pointed out that though on 26th February 2018, the Additional Divisional Commissioner heard the Revision Application on issue of maintainability, the same has not been decided by the Additional Divisional Commissioner. The petitioner has pointed that there was a subsequent event such as the order dated 8th March 2018 passed by the State Government. It is pointed out in the petition that the petitioner has pointed out the

subsequent event pending the Revision Application.

2 The basic grievance of the petitioner is that though the Revision Application was closed for orders on 26th February 2018, no order has been passed by the Additional Divisional Commissioner. On the last date, the petitioner appearing in person has tendered written submissions. On the last date, a letter dated 1st October 2018 addressed by the Additional Commissioner, Pune Division, Pune to the learned AGP was placed on record. The said letter was produced in the context of the directions issued by this Court on 1st September 2018 to produce the file of the second Revision Application for perusal of the Court. In the letter dated 1st October 2018, the Additional Commissioner has stated that to enable him to decide the Revision Application, it was necessary to make verification of the certain technical aspects for which the file has been sent to the Deputy Commissioner, Resettlement. A copy of the said letter was forwarded by the Additional Commissioner to the Deputy Commissioner, Resettlement.

3 Today, the learned AGP has produced for perusal of the Court the file of the Revision Application. The file shows that on 26th February 2018, the present petitioner and the Constituted Attorney of the respondents were heard on the maintainability of the Revision Application preferred by the petitioner and the matter was closed for orders. There is no

further order on the file which indicates the reasons for sending the matter to the Deputy Commissioner, Resettlement. When we made a query to the learned AGP whether there is any order in writing passed by the Additional Commissioner for referring the Revision Application to the Deputy Commissioner of Resettlement, he states that there is no such order in writing. However, he pointed out handwritten remarks on the Application filed by the petitioner which is on page 475 of the file. Even the said remarks do not indicate that any specific order was passed by the Additional Commissioner for referring the file to the Deputy Commissioner of Resettlement. When we made a query to the learned AGP as to whether the Deputy Commissioner, Resettlement is an officer superior in rank to the rank of the Additional Commissioner, he states that the Deputy Commissioner is not a superior officer. We fail to understand as to why the Additional Commissioner did this exercise of sending the file to the Deputy Commissioner of Resettlement after the submissions were heard on 26th February 2018. The roznama indicates that the parties were heard on the issue of maintainability of the Revision Application and therefore, the issue of maintainability ought to have been decided by him within a reasonable time. Instead of doing that, the Additional Commissioner seems to have been adopted this extraordinary approach of referring the file to the Deputy Commissioner.

4 As the submissions have been heard long back on 26th February 2018, now the Additional Commissioner will have to re-hear the parties. In view of delay, time bound schedule will have to be fixed for deciding the issue of maintainability. Prayer clause (a) is the only substantive prayer made in this petition.

5 Accordingly, we dispose of the Writ petition by passing the following order:

(I) We direct the petitioner to appear before the Additional Commissioner, Pune Division, Pune on 19th October 2018 at 11.00 a.m. On that day, the Additional Commissioner will fix a date for hearing the parties on the issue of maintainability of the Revision Application and will issue a notice of the date fixed to the respondents in the Revision Application;

(II) The issue of maintainability of the Revision Application shall be decided by the Additional Commissioner as expeditiously as possible and in any event on or before 16th November 2018;

(III) We make it clear that if for deciding the issue of maintainability of the Revision Application, the Additional Commissioner wants to rely upon any report submitted by the Deputy Commissioner, Resettlement, the copies of the said report shall be made available to the parties to the Revision Application;

(IV) If the Additional Commissioner holds that the

Revision Application is maintainable, he shall proceed to decide the Revision Application on merits as expeditiously as possible and in any event on or before 31st December 2018;

(V) We make it clear that we have made no adjudication on merits of the Revision Application including the issue of maintainability and all contentions of the parties are remain open to be decided by the Additional Commissioner.

(M.S.SONAK,J.)

(A.S.OKA,J.)