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

CIVIL WRIT PETITION NO.12811 OF 2016

Shakuntala Shankarao Salgar and Anr.	...Petitioners
Versus	
State of Maharashtra and Ors.	...Respondents

Mr.N.N.Pawar, for the Petitioners.

Mr.Y.D.Patil, A.G.P for the Respondent Nos.1 to 5.

Mr.P.J.Thorat, for the Respondent Nos.6 to 9.

Mr.Vinod Wase, Desk Officer, Revenue Department is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 4th OCTOBER, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the Petitioners have impugned the order dated 26th August, 2014, passed by the Hon'ble Minister, Revenue Department, in Revision Application No.RTS -3613/5066/P.K.71/J-5A.
3. Learned Counsel for the Petitioners submitted that the

impugned order was passed by the Hon'ble Minister without hearing the Petitioners. He submitted that neither the Petitioners nor their Advocate was heard by the Hon'ble Minister before passing the impugned order 26th August, 2014. Learned Counsel submits that having regard to the same, the impugned order be quashed and set aside and the matter be remitted back to the Hon'ble Minister. Learned Counsel relied on the Judgment of this Court in the case of ***Vinaykumar Kachrual Abad v/s Honourable Minister, Revenue and Forest Department, Mantralaya, Mumbai and Others¹***, in support of his submission.

4. Learned Counsel for the Respondent Nos.6 to 9 submitted that no interference is warranted in the impugned order inasmuch as, several opportunities were granted to the Petitioners, however, the Petitioners failed to appear before the Hon'ble Minister. He submitted that even otherwise, no prejudice will be caused to the Petitioners, inasmuch, there is a finding recorded by the Hon'ble Minister that the rights of the parties i.e. the Petitioners and the Respondent Nos.6 to 9 would be decided by the appropriate Court. He submitted that the mutation entry carries the name

1 2002(1) Mh.L.J.854

of both i.e. the Petitioners as well as the Respondent Nos.6 to 9 and as such no prejudice is caused to the Respondent Nos.6 to 9 on account of the same.

5. Learned AGP was asked to produce the proceedings before the Hon'ble Minister. A perusal of the proceedings show that the Petitioners were indeed present on few dates, however, the hearing did not took place. Record reveals that on 2 to 3 days, prior to the date when the matter was closed for orders, the Petitioners had not remained present. Infact, on the date, when the matter was closed for orders i.e. on 12th August, 2014, the Petitioners were present before the Hon'ble Minister. It therefore cannot be said that the Hon'ble Minister had not given any opportunity to the Petitioners to advance submissions. The Hon'ble Minister in paragraph 5 of the impugned order has mentioned that no written submissions were filed and that the Petitioners were trying to delay the proceedings and that when the matter was called out on 12th August, 2014, despite the fact that they were present, they did not appear and as such heard the Respondents and closed the matter for orders and thereafter, proceeded to pass the impugned order dated 26th August, 2014. The Hon'ble Minister has rightly observed

that the rights of the parties i.e. the Petitioners and the Respondent Nos.6 to 9 would be decided by the Civil Court. The Judgment relied on by the learned counsel for the Petitioners is clearly distinguishable and has no application to the facts of the present case.

6. Considering the aforesaid, no interference is warranted in the impugned order. It is always open for the parties i.e. the Petitioners and the Respondent Nos.6 to 9, to file appropriate proceedings, for crystallizing their right, title and interest in the property in question.

7. The Petition is accordingly disposed of on the aforesaid terms. All contentions of the parties with respect to their right, title and interest in the said property are kept open.

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

(REVATI MOHITE DERE, J.)