

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8927 OF 2014

Shamkant Ramchandra Shelar & Ors. Petitioners

VERSUS

The State of Maharashtra & Ors. Respondents

Mr.Prasad Dani, Senior Advocate, i/b. Mr.Ashok T. Gade for the Petitioners.

Mr.S.D.Rayrikar, A.G.P. for the State – Respondent nos. 1 and 2.

Mr.Girish K.Agrawal for the Respondent no. 3.

CORAM : R.D. DHANUKA, J.

DATE : 12th FEBRUARY, 2018

P.C.

Rule. Mr.Kankal, learned A.G.P. waives service for the respondent nos. 1 and 2. Mr.Agrawal, learned counsel waives service for the respondent o.3.

2. By consent of parties, petition is heard finally at the admission stage.

3. Some of the relevant facts for the purpose of deciding this matter are as under :-

4. It is the case of the petitioners that they are the owners and are in possession, occupation and enjoyment of land in question i.e. Gat No.31, 724 and 731 situated at village Rahud, Tal.Chandwad, District

Nashik. The competent authority of land records had taken measurement of land in question on 1st July, 2005 on the basis of Hissa Form No.12. The names of the petitioners were recorded towards Pot Hissa of land in question. The Talathi Chandwad at the instance of respondent no.2 and other persons caused another Mutation Entry No. 1738 in the records of the right and thereby cancelled and revoked earlier Mutation Entry No. 1707 which was in favour of the petitioner without due process of law on 30th August,2005. The Sub-Divisional Officer, Malegaon was pleased to allow the appeal of the petitioner and set aside both the mutation entries i.e. 1707 and 1738.

5. The respondent no.3 challenged the said order by way of RTS Appeal No.281 of 2007. The Deputy Collector passed an order on 5th April, 2008 allowing the said appeal filed by the respondent no.3. He however has set aside both the mutation entries 1707 and 1738.

6. The petitioner challenged the said order by filing the review proceedings before the Additional Commissioner. The Additional Commissioner however dismissed the said review proceedings by an order dated 10th December, 2008. The petitioners filed RTS proceedings before the Minister of Revenue, Mantralaya. By an order dated 14th September,2012, the learned Minister allowed the said revision filed by the petitioner.

7. On 19th October,2012, this court dismissed the writ petition bearing no.10972 of 2012 filed by the respondent no.2 impugning the said order passed by the learned Minister dated 14th September,2012.

8. The writ petition filed by the respondent no.3 and others came to be dismissed on 6th August,2013. Review petition filed in the said writ petition is also dismissed by this court. It appears that the respondent no.3 filed a Review Application no.2014/Prak. 134/G-6 against the judgment and order dated 14th September,2012 passed by the authority before the learned Minister. The learned Minister ignored his earlier order and order passed by the High Court and reviewed his earlier order which was in favour of the petitioner. This order of the learned Minister is impugned by the petitioner in this writ petition.

9. Mr.Dani, learned senior counsel for the petitioners invited my attention to the earlier order passed by the learned Minister allowing the RTS proceedings filed by the petitioners and also to the order passed by this court dismissing the writ petition filed by the respondent no.3 along with other parties. He submits that the learned Minister though was pointed out the order passed by this court dismissing the writ petition filed by the respondent no.3 and others, the learned Minister has reviewed his own order and decided against the petitioner.

10. Mr.Agrawal, learned counsel for the respondent no.3 states that his client had not filed any Vakalatnama in the earlier writ petition which came to be dismissed by this court though was one of the petitioner.

11. It is not disputed by the learned counsel for the respondent no.3 that by a detailed order dated 6th August,2013, the said Writ Petition

No.342 of 2013 came to be dismissed. The order passed by the learned Minister was upheld by this court.

12. A perusal of the record further indicates that though those subsequent events were brought to the notice of the learned Minister by the petitioners therein, the learned Minister has totally overlooked those events and more particularly that the earlier order allowing RTS application filed by the petitioners was upheld and the order of the learned Minister was confirmed by this court. The learned Minister however has ignored the order passed by this court and has reviewed is earlier order and decided against the petitioner. In my view this act on the part of the learned Minister is totally contemptuous and contrary to the reasons recorded in the detailed judgment rendered by this court on 6th August,2013 in Writ Petition No.324 of 2013. The impugned order passed by the learned Minister is thus set aside. The earlier order dated 14th September, 2012 passed by the learned Minister is restored to file.

13. Rule is made absolute in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]