IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1846 OF 2017

SUDHAKAR PIRA JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. G.A. Nagori, Adovcate for petitioner
Mr. A.V. Deshmukh, AGP for respondents no. 1 to 8
Mr. Avinash Patil Barhate, Advocate h/f. Mr. M.R. Wagh, Advocate for respondents no. 9 to 13
...

CORAM : SUNIL P. DESHMUKH & S.M. GAVHANE, JJ.
DATE : 23-07-2019

ORDER :

1. Leave to amend and annex document.

2. A 63 year old man is before this court against orders passed by Sub Divisional Officer, Chalisgaon dated 05-01-2015 and order thereon by Collector, Jalgaon in appeal dated 17-06-2016 and further order passed by Divisional Commissioner dated 06-08-2016, holding that the proceedings are not maintainable.

3. Briefly stated, it appears to be the case of petitioner that he had purchased subject property from Namdeo Daga Pagare. Pursuant to which a mutation entry bearing no. 2773 had taken place. While said mutation entry in favour of petitioner had

been subjected to challenge in 2000, said objection had been sustained by the Sub Divisional Officer under his order dated 01-09-2001. It appears to be case of petitioner that thereafter there had been certain civil litigation and the same stood decided on 29-04-2009 and pursuant to same, petitioner had filed proceeding before Sub Divisional Officer in 2013 bearing no. 45 of 2013 purporting the same to be under section 257 of the Maharashtra Land Revenue Code, 1966. The same had been decided upon by Sub Divisional Officer, Chalisgaon holding the same to be not maintainable being revision against revisional order. Said proceedings were carried further culminating into order impugned in present writ petition referred to hereinabove.

4. While there does not appear any particular dispute that at the heart of proceedings is mutation entry bearing no. 2773, which has been set aside by Sub Divisional Officer in 2001. In the circumstances, while Sub Divisional Officer had declined to consider proceedings filed by petitioner, appellate authority ought to have treated the proceedings appropriately looking at the scheme of Maharashtra Land Revenue Code and taking into account provisions under Chapter XIII of the Maharashtra Land Revenue Code, 1966 from sections 246 upto 252 and ought to have given appropriate treatment to the proceedings initiated by petitioner.

5. In the circumstances, we deem it appropriate to set aside orders passed by Collector dated 17-06-2016 and the Divisional Commissioner dated 06-08-2016 and restore the appeal filed by petitioner before the Collector and the Collector shall give appropriate treatment and proceed with the matter in accordance with fact, circumstances and law.

6. All the points are kept open for the parties.

7. Writ petition is disposed of.

[S.M. GAVHANE]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

arp/