

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12851 OF 2019

SMT. PRABHAWATI MOHAN MAHAJAN AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Shri Bagul D.S.
AGP for Respondents 1 to 4 : Shri Tambe S.K.
Advocate for Respondents 5 to 9 : Shri Dhorde R.N.
Sr. Adv. i/b Shri Bhosle S.B.

...

CORAM : RAVINDRA V. GHUGE, J.
Dated: October 16, 2019

...

PER COURT :-

1. The petitioners are aggrieved by the order dated 4.9.2019 passed by the Honourable Minister / respondent No.1. By the impugned order, the revision application filed by respondent Nos. 5 to 9 has been allowed and the order of the Deputy Director of Land Records, dated 27.9.2018 and the order of the Additional Collector, Dhule dated 11.1.2018, have been quashed and set aside. Consequentially, all proceedings before the lower revenue authorities have been declared as being infructuous.

2. The learned Sr. Advocate appearing for respondents 5 to 9 relies upon the affidavit-in-reply page No.113 to 439 and supports the impugned order. The learned AGP also defends the said order.

3. I have considered the strenuous submissions of the learned Advocates for the respective sides and the learned AGP on behalf of respondents 1 to 4. Considering the order that I am passing, I am not required to advert to the entire contentions of the parties.

4. Suffice it to say that respondents 5 to 9 approached the Honourable Minister in the proceedings at issue specifically contending that an Appeal No. 009 of 2017 is long pending before the Deputy Director of Land Records, Nasik Region, in which the order of the Dy. Superintendent of Land Records, dated 10.6.2016, was challenged. It was specifically prayed that Appeal SR No. 9 of 2017 be expedited and the Deputy Director of Land Records be directed to decide the matter expeditiously. However, further prayers of (a) set aside the order of the Dy. Superintendent of Land Records, dated 10.6.2016, and (b) the mutation entries Nos.93 and 94 be confirmed, were also put forth.

5. Despite the strenuous submissions of the respondents, I find that the proceedings before the Dy. Director of Land Records, were pertaining to the same prayers made by the respondents that (a) the order of the Dy. Superintendent of Land Records, dated 10.6.2016, be quashed and (b) the mutation entries Nos.93 and 94 be confirmed.

6. I find it quite unusual that a statutory proceeding of 2017 was pending before the Dy. Director of Land Records and yet the Honourable Minister has taken up the same proceedings before him and passed an order dated 4.9.2019 impugned in this petition, as if the entire matter had travelled to his office and there was no substantive statutory proceeding pending before the Deputy Director of Land Records.

7. It also appears from the record that subsequently the Deputy Director of Land Records indeed decided Appeal No.009 of 2017 by order dated 27.9.2018 and the appeal preferred by respondent No.5, was dismissed. The said order has not been specifically challenged by any of the respondents before the Honourable Minister.

8. To say the least, the Honourable Minister has acted beyond the scope of his powers, highhandedly, and has usurped the jurisdiction of the Deputy Director of Land Records though the proceedings No.009 of 2017 were pending before the said authority and were subsequently decided on 27.9.2018.

9. What is shocking is that though respondents 5 to 9 have not challenged the final order of the Deputy Director of Land Records, dated 27.9.2018, since their proceedings before the Honourable

Minister were lodged on 25.6.2018, the Honourable Minister has mentioned in the impugned order that the order of the Deputy Director of Land Records in Appeal No. 009 of 2017, is challenged and he has quashed and set aside the order of the Deputy Director of Land Records, dated 27.9.2018.

10. It is equally shocking that though there is nothing before me to indicate that the order dated 27.9.2018 passed by the Deputy Director of Land Records was challenged by the respondents in the pending proceedings registered on 25.6.2018 and that there was no amendment carried out, the Honourable Minister mentioned in paragraph No.6 of the impugned order that the said order was challenged before him.

11. In view of the above, I can only record that this Court is astonished and shocked by the conduct of the Honourable State Minister (Revenue) / respondent No.1 herein in abusing his powers.

12. In view of the above, this petition is allowed. The impugned order dated 4.9.2019, passed by respondent No.1 is quashed and set aside. Needless to state, any further revenue entries that have occurred on the basis of the impugned order, stand nullified and shall not be recognized in law as on date.

13. Needless to state, respondents 5 to 9 will be at liberty to challenge the order dated 27.9.2018 or any such order by which they are aggrieved, passed by the Deputy Director of Land Records, Nasik, as may be permissible in law.

14. All contentions of the litigating sides are kept open and shall be considered on their own merits.

(RAVINDRA V. GHUGE, J.)

...

akl/d