

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 10576 OF 2018**

Parshuram Dinkar Narute and others

.....Petitioners

V/s.

Addl. Collector, Satara and others

.....Respondents

Mr. Avinash Bapusaheb Patil for the Petitioner

Mr. C. D. Mali AGP for the State

CORAM : NITIN W. SAMBRE, J.**DATE : JUNE 18, 2019.****P.C.**

The learned counsel for the petitioner informs that respondent no. 11, mother of the petitioner has expired and in view of release deed, LR's are not required to be brought on record.

2 In view of above, appropriate amendment in the cause title be carried out within one week from today.

3 Pursuant to the provisions of Section 85 of the Maharashtra Land Revenue Code, 1966 (Hereinafter referred to as 'the Code' for the sake of brevity), Tehsildar, Phaltan vide order dated 30/04/2002 granted Aanewari (Share) in favour of respective holders of petitioner and respondents who claim to be owner by virtue of succession. Since in the said order under Section 85 of the Code, certain irregularities were noticed by the Collector, particularly in the backdrop of having noticed certain back dated orders, issued directions on 20/11/2007 to conduct an inquiry resulting into registration of proceedings under Section 257 of the Code by the Sub-Divisional Officer (Hereinafter referred to as 'SDO').

4 The learned SDO noticed serious irregularities on 14 counts and directed the Tehsildar vide its order dated 21/01/2015 to conduct re-inquiry in the matter qua application of the petitioner under Section 85 of the Code.

5 The respondent Tehsildar vide its order dated 27/09/2016, maintained its earlier order which was already set aside by the SDO

vide its order dated 21/01/2015 in most cryptic manner.

6 The petitioner feeling aggrieved by the said order of Tehsildar, preferred the appeal before the Additional Collector, the Additional Collector held the said appeal as not maintainable. As such, this petition.

7 The submission is, the order of Tehsildar dated 27/09/2016 is without consideration of the issue which were framed and directed to be decided by the SDO vide its order dated 21/01/2015. According to learned counsel, the order of Tehsildar lack reasons, in support of the conclusion drawn, that too by maintaining the order which was already quashed by the SDO. According to him, it will be in the interest of justice that the Tahsildar be directed to take decision afresh pursuant to the order of SDO on the issues which are framed therein as is reflected in the order dated 21/01/2015.

8 None appears for the respondent though served.

9 The learned A.G.P. tried to support the order, however, he is unable to explain the absence of reasons and lack of considerations as was expected from Tehsildar in the light of the order of SDO dated 21/01/2015.

10 Having considered submissions, what is noticed from the order dated 27/09/2016 passed by the Tehsildar is, reasons based on which his earlier order dated 30/04/2002 recording mutation entry no. 404 was set aside by the SDO vide its order dated 21/01/2015. In the backdrop of the orders of SDO, in the impugned order it was expected of Tehsildar to pass a speaking order thereby furnishing fresh reasons in support of the order impugned that too by dealing with the points which were framed by SDO in his order of removal. The Tehsildar in most cryptic manner that too without recording any reasons has passed an order dated 27/09/2016 thereby maintaining his order which was already quashed.

11 The least that was expected of the Tehsildar was to deal with the issues on which re-inquiry was ordered by the SDO. The

aforesaid approach on the part of the Tehsildar is nothing but shirking its Statutory responsibility which action is deprecated the order of Tehsildar, also suffers from non-application of mind.

12 In the aforesaid background, the Court is left with no other option but to quash the order dated 27/09/2016 passed by the Tehsildar with directions to decide the Section 85 application afresh in the light of observations made by Sub-Divisional Officer in its order dated 21/01/2015 in RTS/Reinquiry no. 447/11 **State Vs. Virdev Narute and others.**

13 With above observations, petition stands partly allowed.

[NITIN W. SAMBRE, J.]