

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

WRIT PETITION NO.3142 OF 2015

Shri Govind Dahinaji Gaikwad ... Petitioner

V/s.

The State of Maharashtra and ors. ... Respondents

Mr.P.S.Dani, Senior Advocate with Mr.Prajakt M. Arjunwadkar for the Petitioner.

Mr.C.D.Mali, AGP for Respondent Nos.1,2 and 3-State.

Ms.Anjali S.Ranade, Advocate for Respondent Nos.5 and 6.

CORAM : UJJAL BHUYAN, J.

DATE : DECEMBER 04, 2019.

P.C.:-

1. Heard Mr.P.S.Dani, learned senior counsel instructed by Mr.Prajakt M. Arjunwadkar, learned counsel for the petitioner and Mr.C.D.Mali, learned AGP for respondent Nos.1,2 and 3. Also heard Ms.Anjali Ranade, learned counsel for respondent Nos.5 and 6.

2. By filing this petition under Article 227 of the Constitution of India, petitioner has assailed legality and correctness of order dated 25th September, 2014 passed

by the Deputy Director of Land Records, Aurangabad Division in proceeding No. Land Survey/ Appeal/ Pune/SR/ 2037/2012.

3. Against the mutation entry in favour of the petitioner under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, respondent Nos. 4,5 and 6 preferred appeal before the District Inspector of Land Records, Pune in Consolidation Appeal No.1514 of 2011 in which petitioner was the opponent. Appeal was allowed by order dated 14th February, 2012.

4. Aggrieved by the appellate order dated 14th February, 2012, petitioner preferred further appeal before Deputy Director of Land Records (Settlement Commissioner), Pune Division, Pune, which was registered as R.T.S. Appeal No.2037 of 2012.

5. Grievance of the petitioner is that without any notice to the petitioner and without prior intimation, the record of the appeal was transferred to the office of the Deputy Director of Land Records, Aurangabad Division where in the absence of the petitioner impugned order dated 25th September, 2014 was passed dismissing the

appeal of the petitioner and affirming the order dated 14th February, 2012.

6. Aggrieved, present writ petition has been filed.

7. After hearing learned counsel for the parties and on due consideration, court is of the view that before transfer of the appeal record the appellant i.e. the petitioner ought to have been put on notice. Respondents have not been able to show that petitioner was informed that the appeal record would be transferred from Pune to Aurangabad. When the petitioner was not informed of such transfer, naturally he could not be expected to be present at the time of hearing in Aurangabad. Viewed thus, there is violation of the principles of natural justice which has vitiated the impugned order dated 25th September, 2014.

8. Consequently, impugned order dated 25th September, 2014 is hereby set aside.

9. Matter is remanded back to the forum of Deputy Director of Land Records (Settlement Commissioner) Pune Division, Pune, who shall hear the appeal afresh.

10. Since the contesting parties are before the court, let them appear before Deputy Director of Land Records (Settlement Commissioner) Pune Division, Pune on 23rd December, 2019 on 10.30 a.m. whereafter the Appellate Authority shall proceed with the appeal and decide the same one way or the other within a period of three months from the date of appearance.

11. Respondents to act on an authenticated copy of this order.

12. Writ Petition is disposed of.

(UJJAL BHUYAN, J.)

....