Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7363 OF 2018

Dnyanu Laxman Davane and ors. .. Petitioners
Vs.
The State of Maharashtra and ors. .. Respondents

Mr.S.S.Patwardhan I/b Mr.Bhooshan R. Mandlik, for the Petitioners.
Mrs.P.J. Gavhane, AGP for State -Respondents No. 1 to 4.
Mr.Chaitanya Nikte, for Respondents No. 5 to 8.

CORAM : M.S.KARNIK, J.

DATE : 04th MARCH, 2019

P.C. :

. Heard learned Counsel for the petitioners, learned AGP appearing for respondents No. 1 to 4 and learned Counsel appearing for the respondents No. 5 to 8.

2. It is not in dispute that against an order dated 28/09/2015 which is at page 51 of the paper-book, the petitioners have remedy of filing Revision under section 257 of

the Maharashtra Land Revenue Code, 1966 (for short 'Code'). It appears that instead of filing a Revision under section 257, the petitioners filed Revision under section 35 of the Bombay Prevention of Fragmentation & Consolidation of Holdings Act, 1947. It is for this reason that the Hon'ble Minister held that the Revision is not maintainable as original proceedings were filed under the Code.

3. Faced with this, learned Counsel for the petitioners submits that he should be permitted to file revision under section 257 of the Code. Learned Counsel for the respondents No.5 to 8 fairly submits that the Revision under section 257 of the Code is maintainable. In this view of the matter, in my opinion, following order would meet the ends of justice.

<u>O R D E R</u>

(i) Liberty is granted to the petitioners to file Revision under section 257 of the Code against the order dated 28/09/2015 passed by the Deputy Director of Land Records, Pune Division, Pune.

(ii) If such Revision is filed, the revisional authority shall entertain it on its own merits without being influenced by any observations made in the order dated 17/01/2018 passed by the Hon'ble Minister, (Revenue) Maharashtra State.

4. With these observations, Petition is disposed of. Needless to mention that all contentions on merits are kept open.

(M.S.KARNIK, J.)