

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8466 OF 2017

Narayan Mahadu Mahadik & Ors. Petitioners

VERSUS

Sanjay Ananda Vibhute & Ors. Respondents

Mr.M.B.Deshmukh for the Petitioners.

Ms.Rati S.Sinhasane, i/b. Mr.Umesh R.Mankapure for the Respondent no.1.

Mr.S.D.Rayrikar, A.G.P. for the Respondent nos. 15 and 17.

CORAM : S.S. SHINDE, J.

DATE : 8th APRIL, 2019

P.C.

Rule. Rule made returnable forthwith with the consent of parties.

2. This petition takes exception to the order dated 1st April,2017 passed by the Hon'ble State Minister for Review in Revision No. Akatri/3617/164/Pra.K.19/J-5A.

3. It is the case of the petitioners that, they are in continuous possession of the subject land. The consolidation scheme has been impugned and old survey number 552 admeasuring 13 acre 32 gunthas is converted into Gat nos. 4160 to 4165.

4. It is further the case of the petitioners that while implementing consolidated scheme, less area of said land in said newly formed gat number was mentioned, therefore the petitioner filed the application on 16th December, 1996 with the Office of Deputy Director of Land Record, Pune requesting therein to issue direction for correction of the said area. The application filed by the petitioner was entertained and allowed by the said authority and Taluka Inspector of the Land Records, Kadegaon was directed to measure and correct the area of land in the aforesaid gat no.4162.

5. Being aggrieved by the order passed by the Deputy Director of Land Record, the respondent nos. 1 to 3 herein filed revision before the learned State Minister (Revenue), Government of Maharashtra. The said authority quashed and set aside the order passed by the Deputy Director of Land Record on 11th September, 2007. Being aggrieved by the said order, this writ petition is filed by the petitioners.

6. Learned counsel appearing for the petitioner submits that the petitioner has excellent case on merits. He further submits that the revision filed by the respondent nos.1 to 3 was hopelessly time barred, in as much as, the Deputy Director of Land Record, Pune passed an order in the year 2007. However, the revision was filed in the year 2017. It is submitted that the learned Minister did not taken into consideration the contention of the petitioners that there was inordinate delay in filing the revision.

7. Learned counsel further submits that, if at all the revisional

authority was of the opinion that the Deputy Director of Land Record, Pune has not discussed about the delay in filing the application before it, at the most, the matter should have been remitted back to the Deputy Director of Land Record for fresh consideration.

8. On the other hand, learned counsel appearing for the respondent nos. 1 to 3 submits that the application filed by the petitioners for correction of area was after inordinate delay and the said delay was neither explained from the date of implementation of consolidation scheme, nor discussed by the Deputy Director of Land Record, Pune by the petitioner in its order. It is submitted that the consolidation scheme which was implemented in the year 1980, should not have been re-opened after inordinate delay of more than 25 years. In support of the aforesaid contention, learned counsel appearing for the petitioners pressed into service the exposition of law of the Hon'ble Supreme Court in case of ***Gram Panchayat Kakran vs. Additional Director of Consolidation and another***, (1997) 8 SCC 484.

9. Heard learned counsel appearing for the parties at length, with their able assistance perused the grounds taken in the petition, the annexures thereto and the order passed by the Deputy Director of Land Record, Pune and also the order passed by the learned Minister which is impugned in the present petition. Upon careful perusal of the order passed by the Deputy Director of Land Record, it appears that the said authority has not discussed about the inordinate delay in filing the application by the petitioners for correction of the area in the consolidation scheme, which was finalized in the year 1980.

Therefore, the respondent no.17 has rightly observed in the impugned order that the order passed by the Deputy Director of Land Record is without discussing or mentioning about inordinate delay in filing the application for correction of area. Therefore, no perversity is found in the said observations made by the respondent no.17 in the impugned order. However, the respondent no.17, has also not given cogent reasons for condoning the delay of more than 9 years in filing the revision by the respondent nos. 1 to 3. In that view of the matter, an ends of justice would be met, in case following order is passed :-

ORDER

- (a) In the result, the impugned judgment and order passed by the respondent no.16 as well as respondent no.17 stands quashed and set aside.
- (b) The application no. 9849 filed by the petitioners is restored to its original file.
- (c) The Deputy Director of Land Record, Pune is directed to decide the said application afresh on its own merits and without being influenced by an observations made in the impugned judgment and order by the respondent no.17.
- (d) All the contentions on delay as well on merits are kept open to be agitated before the respondent no.16.

(e) It is made clear that this court has not expressed opinion on merits of the matter and it is for the respondent no.16 to take appropriate decision in accordance with law, as expeditiously as possible, since the parties are litigating for considerable period.

10. Rule is made absolute in the above terms.
11. Writ petition stands disposed of accordingly.

[S.S.SHINDE, J.]