

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8499 OF 2019

Dwarka Co-operative Housing Society Limited ... Petitioner
Vs.
M/s. Mulraj Khatau & Sons Pvt. Ltd. and others ... Respondents

Mr. R. M. Nakhawa i/b. Mr. Vasant D. Dhavan for Petitioner.
Ms Sharmila Deshmukh for Respondent No.1.
Ms Hemangi Pathare for Respondent Nos.3(a) to 3(d).
Mr. P. V. Nelson Rajan, AGP for Respondent Nos.2, 4 and 5-State.

CORAM : UJJAL BHUYAN, J.
DATE : DECEMBER 06, 2019

P.C. :

Heard Mr. Nakhawa, learned counsel for the petitioner and Ms Deshmukh, learned counsel for respondent No.1; also heard Mr. P. V. Nelson Rajan, learned AGP for respondent Nos.2, 4 and 5-State and Ms Pathare, learned counsel representing respondent Nos.3(a) to 3(d).

2. By filing this Petition under Article 227 of the Constitution of India, the petitioner has assailed legality and correctness of the order dated 17.06.2019 passed by the Deputy Director of Land Records, Konkan Division i.e., respondent No.6 rejecting the appeal filed by the petitioner by holding the same to be not maintainable while granting liberty to file revision application under Section 257 of the Maharashtra Land Revenue Code, 1966.

3. Matter relates to cancellation of mutation entry in favour of the petitioner at the instance of respondent No.1 in respect of the land in question. In this connection, order was passed on 14.03.2019 by respondent No.4 in favour of respondent No.1. Against this order, petitioner preferred an appeal before respondent No.6 which was registered as Appeal No.273 of 2019. The appeal was preferred under Section 247 of the Maharashtra Land Revenue Code.

4. Taking the view that the appeal was not maintainable while revision application under Section 257 was maintainable, the appeal was disposed of vide order dated 17.06.2019.

5. Learned counsel for the petitioner submits that the impugned order dated 17.06.2019 was passed by respondent No.6 without hearing the petitioner.

6. As a matter of fact, learned counsel for the respondents also submit that the said order was passed without hearing any of the parties though they contend that appeal was not maintainable.

7. Be that as it may, it is the fundamental principle that while exercising *quasi* judicial power, it is necessary for the authority exercising such power to afford reasonable opportunity of hearing to the parties before any decision is reached. Closure of the appeal of the petitioner without hearing the petitioner is in violation of the principles of natural justice and is therefore not justified.

8. Consequently, order dated 17.06.2019 is hereby set aside. Parties are relegated to respondent No.6 who shall consider the rival contentions and thereafter pass appropriate order in accordance with law in Appeal No.273 of 2019 filed by the petitioner.

8.1. Since the contesting parties are before the Court, let them appear before respondent No.6 on 20.12.2021 at 10.30 a.m., whereafter respondent No.6 shall hear and decide the appeal in accordance with law within a period of 6 weeks from the date of appearance.

9. Writ Petition is disposed of.

(UJJAL BHUYAN, J.)