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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14014 OF 2017

Mr. Rajesh Munshiram Ahuja & Ors. Petitioners.

V/s

State of Maharashtra and Others Respondents.

Mr. Mahendra Agrekar alongwith Shraddha Chavan i/b Mr. Sachin Gorwadkar for the Petitioners.

Mr.S.L. Babar, AGP for Respondent No.1.

Mr. Kunal Bhanage i/b Mr. Akshay Pawar for Respondent No.3.

CORAM: NITIN W. SAMBRE, J.

DATE: 31st July, 2019

P.C.:

1] In exercise of powers under Section 257 of the Maharashtra Land Revenue Code, at the behest of the Respondent No.2 – Vastukrupa Constructions (I) Pvt. Ltd. (For short “Vastukrupa Constructions”), State Government allowed the Revision, setting aside

the orders passed by the lower authorities and ordered deletion of the names of the Petitioners from the record of rights. As such this Petition.

2] The facts necessary for deciding this Petition are as under:-

3] An agreement of lease was entered into on 20/10/1991 between Nashik Diocesan Council, a Public Trust and Vastukrupa Constructions. Pursuant to the said agreement, building lease for development came to be executed on 05/12/1992 to which the present Petitioners are claiming to be the parties, other than the Vastukrupa Constructions and Nashik Diocesan Council. According to the learned Counsel for the Petitioners, development agreement confers certain right on the Petitioners and that being so, the names of the Petitioners should not have been directed to be removed by the State Government in Revision while ordering change in the Mutation Entry.

4] In the aforesaid background, submissions are, the original

agreement/building lease for development in categorical terms identifies the Petitioners being individual beneficiary and that being so, even if there is change in the configuration of the firm Vastukrupa Constructions, Petitioners' names ought not to have been ordered to be removed. He would submit that suit for specific performance though is pending, same will have hardly any bearing over alleged claim of alteration of Mutation Entry. As such, according to him, the impugned order passed by the State Government setting aside the orders passed by the authorities below is not sustainable.

5] The aforesaid contentions are resisted by the Respondents on the ground that a Deed of Conveyance registered on 05/12/1992 underwent modification/correction vide registered Deed dated 04/02/1993. He would then urge that further correction Deed was executed on 29/10/2010. The correction Deed dated 29/10/2010 and the earlier Deeds are signed by the Petitioners there by agreeing that they are not concerned with the Vastukrupa Constructions and as such, Petitioners have no interest in the property in question.

According to the Respondents, the disputed questions are raised in the Petition are already adjudicated before the competent civil court at the behest of the Petitioners i.e. in a suit for specific performance and that being so, Petition is liable to be dismissed.

6] Considered the rival submissions.

7] The fact that the Petitioners were not parties before the District Superintendent of Land Records where claim of Respondent No.2 – Vastukrupa Constructions for change in the Mutation Entry was rejected so also before the Deputy Director of Land Records, Nashik, who has rejected the appeal of Respondent No.2 on 30/3/2015, is not in dispute.

8] Petitioners invoked the provisions of Section 257 of the Maharashtra Land Revenue Code in the aforesaid background, claiming that the Petitioners' names ought not to have been struck off from the revenue record, particularly when initial Deed of Conveyance speaks of interest of the Petitioners in the property in

question.

9] If the aforesaid contentions are appreciated in the light of two subsequent correction Deeds executed by the Petitioners, prima facie it can be noticed that the Petitioners in the backdrop of the permission granted by the Charity Commissioner in regard to the sale transaction of the property in question under Section 36 of the Maharashtra Public Trusts Act, have given up their claim in the property.

10] Based on the very same Agreement/Conveyance Deed, which the Petitioners are relying for maintaining their names in the revenue record, a suit at the behest of the Petitioners for specific performance is also pending before the competent Civil Court.

11] It is settled position in law that revenue entries carried out pursuant to the orders of revenue authorities lacks originality and the same are always subject to outcome of the civil proceedings. In the wake of the fact that the suit at the behest of the Petitioners is already

pending and certain disputed questions of facts are raised, which this Court cannot appreciate in exercise of its powers under Article 227 of the Constitution of India, in my opinion, no case for interference is made out. Petition fails and the same stands dismissed.

(NITIN W. SAMBRE, J.)