

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11265 OF 2019

Subhashchandra Jagdambaprasad Dubey and another... Petitioners
Vs.
The Deputy Director of Land Records and others ... Respondents

Mr. Vijay M. Waghela for Petitioners.
Mr. A. B. Kadam, AGP for Respondent Nos.1 to 3 and 7.
Mr. Altaf Khan for Respondent No.4.
Mr. Amol Jagtap i/b. Mr. Abhijeet Desai for Respondent No.6 (S.R.A.)

CORAM : UJJAL BHUYAN, J.
DATE : NOVEMBER 05, 2019

P.C. :

Considering the limited nature of grievance expressed by the petitioners, Court is of the view that issuance of formal notice is not necessary more so when contesting respondent No.4 is represented by learned counsel.

2. Heard Mr. Waghela, learned counsel for the petitioners, Mr. Kadam, learned AGP for respondent Nos.1 to 3 and 7, Mr. Khan, learned counsel for respondent No.4 and Mr. Jagtap, learned counsel for respondent No.6.

3. Being aggrieved by order dated 05.04.2017 passed by the District Superintendent of Land Records, Mumbai Suburban directing mutation entry of the land in question in favour of respondent No.4, petitioners have preferred an appeal before the Deputy Director of Land Records, Konkan Region at Mumbai, which was registered as Appeal No.734 of 2018. By order dated 30.10.2018, the appellate authority dismissed the appeal for absence of the appellants.

4. It is seen that the appellants were absent on three dates prior to

30.10.2018 i.e. on 19.09.2018, 09.10.2018 and 17.10.2018. Learned counsel for the petitioners submits that petitioners were the appellants and due to inadvertence they could not remain present before the appellate authority on the above dates to pursue their appeal.

5. On a query by the Court, he submits that if the appeal is revived, petitioners will pursue their appellate remedy without any default.

6. Learned counsel for respondent No.4 submits that there is no merit in the appeal and petitioners by filing the appeal is trying to frustrate a lawful order of mutation in favour of respondent No.4. He further submits that respondent Nos.6 and 7 are not parties to the appeal and, therefore, they have been unnecessarily arrayed as respondents in the present proceeding.

7. Submissions made have been considered.

8. After hearing learned counsel for the parties and on due consideration, Court is of the view that it would be in the interest of justice if one more opportunity is granted to the petitioners to pursue their appeal. Therefore, without expressing any opinion on merit, order dated 30.10.2018 is set aside and the appellate authority i.e. Deputy Director of Land Records, Konkan Region, Mumbai is directed to take on board Appeal No.734 of 2018 and to decide the same one way or the other in accordance with law.

9. Since the contesting parties are present before the Court, they are directed to appear before the appellate authority on 19.11.2019 at 10.30 a.m.

10. Writ Petition is disposed of.

(UJJAL BHUYAN, J.)