IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3147 OF 2019

Tilak Enterprises & Anr. .. Petitioners
Vs.
Shree Tilak complex CHS Ltd.
& Ors. .. Respondents

Mr.Gaurav Joshi, Senior Advocate a/w. Mr. Piyush Raheja i/b Makarand V. Raut for petitioners.
Mr.S.A. Abhyankar for respondent No.1.
Mr.Hemant Haryan, AGP for respondent Nos. 3 and 4-State.

CORAM : N.J. JAMADAR, J.
DATE : 12TH DECEMBER 2019

P.C.

1. Heard the learned counsel for the parties.

2. The challenge in this petition is to an order dated 19th April 2018 passed by the Minister (Revenue) in Appeal No. 2167/2553 in Case No. 8/J-3, whereby the Minister had set aside the order dated 16th January 2017 passed by the Additional Commissioner Konkan Division in Appeal/Desk/NND/94/2015, by which the Additional Commissioner had rejected the application for condonation of delay, preferred by the respondent No.1 herein, in challenging the order passed by the Collector, Mumbai Suburban District on 17th October 1998,

3. The Minister, by the impugned order, directed that Appeal/Desk/NND/94/2015 stands restored to the file of the Additional Commissioner, Konkan Division and the latter shall decide the same on merits, after providing an opportunity of hearing to all concerned.

4. The substance of the challenge is that while passing the impugned order, the petitioners were not heard inasmuch as an effective opportunity of hearing was not given to the petitioners, in the sense that, the notices of hearing of the revision under section 257 of the Maharashtra Land Revenue Code, 1966 (‘Code’) were not served upon the petitioners.

5. From perusal of the impugned order, especially paragraph No.3 thereof, it becomes evident that the Minister proceeded to decide the revision on the premise that the petitioners-the respondents to the said revision, had nothing to say as they did not appear, despite being served with the notices. The question as to whether the petitioners had adequate notice of hearing and were duly served are put in contest by the respondent No.1.

6. Having regard to the nature of the order, which was passed by the Additional Commissioner, Konkan Division, on 16th November 2017 whereby the application for condonation of delay in challenging the order dated 17th October 1998 was rejected, it was imperative for the revisional authority to provide an effective opportunity of hearing to the respondents. The fact remains that the petitioners were not heard by the Minister before the order of the Additional Commissioner was set aside.

7. In this proceedings, it is not warranted to examine the question as to whether the petitioners were duly served. It would thus be expedient and in the interest of justice to direct that the revision be heard afresh by the

Minister, after providing an opportunity of hearing to the petitioners and all concerned parties.

8. Hence, the petition stands allowed to the following extent :

(i) The impugned order dated 19th April 2019 passed by the Minister (Revenue) in Appeal No. 2167/2553 in Case No. 8/J-3 stands quashed and set aside.

(ii) The proceeding being Appeal No. 2167/2553 in Case No. 8/J-3, stands restored to file of the Minister.

(iii) The Minister shall decide the revision under section 257 of the Code, after providing an effective opportunity to the petitioners/respondents and all concerned parties.

(iv) The petitioners and respondent No.1 shall appear before the Minister on 13th January 2020 at 11:00 a.m. along with a copy of this order.

(v) The Minister shall make an endevour to decide the revision application as expeditiously as possible.

[N.J. JAMADAR, J.]