FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4132/2016

(NARESH LAXMANRAO BHATKAR & ORS **VERSUS** VITTHAL NAMDEORAO KALASKAR & OTHERS)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri A.B. Bambal, counsel for petitioners.
Shri C.A. Babrekar, counsel for R-1.
Shri Shyam Bissa, A.G.P. for R-2 to 6.

CORAM : A.S. CHANDURKAR, J.
DATE : JULY 04, 2019.

The challenge raised in the present writ petition is to the order passed by the Principal Secretary, Revenue and Forest Department in proceedings under Section 257 of the Maharashtra Land Revenue Code, 1966 (for short, 'the Code') whereby the revision application preferred by the respondent no.1 has been allowed and the corrigendum issued by the District Superintendent of Land Records, Amravati on 31.10.2000 has been set aside.

The facts in brief are that it is the case of the petitioner no.1 that on 29.04.2002 he had purchased land from Gat No.250. The respondent no.1 had on 13.11.1995 also purchased adjacent land from one Venubai. Prior to the purchase of land by the respondent no.1 a consolidation scheme under the provisions of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (for short, 'the said Act') had been implemented. It is the case of the petitioners that they had purchased the aforesaid land after a corrigendum dated 31.10.2000 came to be published by the District Superintendent of Land Records, Amravati and the areas purchased by them were in consonance with that corrigendum. There were disputes between the parties resulting in filing of civil suits in the civil Court. The respondent no.1 raised a challenge to the aforesaid corrigendum dated 31.10.2000 by filing revision application under Section 257 of the Code. However, this remedy was invoked after a considerable period of time and in the year 2015. The Principal Secretary entertained the said proceedings and proceeded to set aside the said corrigendum on the ground that the prescribed procedure had not been followed while issuing the same and that it was in breach of the law as laid down by this Court in that regard. Being aggrieved the order dated 02.02.2016 has been challenged in the present writ petition.

Shri A.B. Bambal, learned counsel for the petitioners submitted that it was not open for the State Government to exercise revisional powers after almost fifteen years from issuance of the corrigendum. It was submitted that though no period of limitation has been prescribed for exercising such revisional jurisdiction the same has to be done with a reasonable period. Placing reliance on the decision in *Santoshkumar Shivgonda Patil & Others Versus Balasaheb Tukaram Shevale & Others* [**(2009)9 SCC 352**], it was submitted that in view of passage of almost fifteen years such revisional jurisdiction ought not to have been exercised by the authorities. He further submitted that the respondent no.1 was aware about the issuance of the said corrigendum but despite that no immediate steps were taken to challenge the same. On the aforesaid grounds, it was submitted that the impugned order was liable to be set aside.

Shri C.A. Babrekar, learned counsel for the respondent no.1 supported the impugned order. He submitted that since the corrigendum was prepared in breach of the provisions of the said Act, the Revisional Authority rightly found the same to be contrary to law and hence exercised revisional jurisdiction. According to him, the said corrigendum was issued by the Taluka Inspector of Land Records when infact the jurisdiction to issue such corrigendum was either with the Settlement Commissioner or the District Inspector of Land Records. He referred to the provisions of Section 31A of the said Act. According to him, though the respondent no.1 was the owner of portion of the land no notice was issued to him before the said corrigendum was issued. Placing reliance on the decisions in *Limbraj Waman Yede Versus State of Maharashtra & Others* [**2004(4) BCR 945**] and *Jalindar Sadashiv Hirde & Others Versus State of Maharashtra & Others* [**2018(4) Mh.L.J. 200**], it was submitted that the Taluka Inspector of Land Records had no authority to issue the said corrigendum. Further reference was made to the decision in Gunda Tuka Shinde since by his heir *Bajirao Tukaram Shinde Versus Pandharinath Ramrao Shinde & Another* [**1991 Mh.L.J. 669**] to urge that objection under provisions of Section 19(1) of the said Act could not have been raised after the prescribed period. He therefore submitted that the Principal Secretary after noticing all these aspects proceeded to exercise revisional jurisdiction and hence no interference was called for.

Shri Shyam Bissa, learned Assistant Government Pleader for respondent nos.2 to 6 relied upon the affidavit in reply and supported the impugned order. It was submitted that on noticing the aspect that corrigendum had been issued in a manner contrary to the prescribed procedure, the revisional jurisdiction had been exercised.

I have heard the learned counsel for the parties at length and I have perused the documents placed on record. The corrigendum dated 31.10.2000 has been issued by the District Superintendent of Land Records and there is a correction made in the boundaries of Gat Nos.1, 2 and 3 from Survey No.250. The said corrigendum indicates the position prevailing prior to the consolidation scheme and the decision in accordance with the consolidation scheme. Documents on record indicate such corrigendum having been issued in exercise of powers under Section 31A of the said Act. On that basis, necessary corrections have been effected.

The revisional Authority in the impugned order has set aside the corrigendum dated 31.10.2000 on two counts. Firstly, it has found that the consolidation scheme had been settled much prior to 1995 before the respondent no.1 had purchased his field. Under provisions of Section 31A of the said Act any clerical or arithmatical mistake or error can be corrected ordinarily within a period of three years from the publication of the scheme. The revisional Authority has referred to the decision of this Court in *Gulabrao Kakade Versus Nivrutti Krishna Bhilare* [**2001(4) Mh.L.J. 31**] where the aforesaid period of three years has been held to be reasonable period and has found the power to have been exercised in the present case after more than five years. Secondly, it has noted the absence of any objection being raised to the draft scheme before its finalization. As per provisions of Section 19(1) of the said Act after a draft scheme is published by the Consolidation Officer, it is permissible to raise objections thereto within a period of thirty days from such publication. However, if no objection is raised within the stipulated period then the draft scheme proceeds further and under Section 20 of the said Act the same stands confirmed by the Settlement Commissioner. In *Gunda Tuka Shinde* (supra), the Division Bench of this Court has held that after the prescribed period of thirty days, it is not permissible to raise any objection to the draft consolidation scheme.

The Principal Secretary while invoking revisional jurisdiction has referred to the aforesaid legal position and has thereafter observed that by issuing the corrigendum on 31.10.2000, there was a breach committed by not following the law laid down in the aforesaid decisions holding the field. On that count, the Authority proceeded to exercise revisional jurisdiction. It is thus seen that after noticing the aforesaid shortcomings in issuance of the corrigendum and after finding the same to be contrary to the law laid down by this Court, such revisional jurisdiction has been exercised.

The petitioners have placed heavy reliance on the decision of the Hon'ble Supreme Court in *Santoshkumar Shivgonda Patil & Others* (supra) to urge that though there is no prescribed time limit for exercise revisional jurisdiction, it does not mean that the same could be exercised at any point of time. The same is required to be exercised within a reasonable period. There can hardly be any dispute with this position of law. However, at the same time when the facts of the present case are examined, it can be seen that on the basis of such corrections carried out by virtue of the corrigendum, the respondent no.1 who was not noticed despite holding title to one of the properties was prejudiced. It is in that context that he had invoked the revisional jurisdiction under Section 257 of the Code at the instance of the respondent no.1. In the light of the finding that the exercise of power under Section 31A of the said Act was beyond the prescribed period and hence not permissible under the Act, it is found that the Revisional Authority was justified in exercising such jurisdiction for correcting jurisdictional defects. In these facts therefore no fault can be found with the impugned order passed by the Principal

Secretary exercising revisional jurisdiction. Moreover, setting aside the impugned order would result in restoring the void and illegal order of issuance of corrigendum dated 31.10.2000. Hence, the present case is not found fit for exercise of writ jurisdiction.

In that view of the matter, the Writ Petition stands dismissed with no order as to costs.

JUDGE

APTE