IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6068 OF 2021

Antop Hill Warehousing Company Ltd., .. Petitioner.
v/s.
State of Maharashtra & Others .. Respondents.

Mr. Atul Damle, Sr. Advocate with Mr. Siddhesh Bhole, Krupashree Sawant and Kshitija Bhosale i/b. SSB Legal & Advisory, for the Petitioner.
Mr. S. H. Kankal, AGP for the Respondent-State.
Mr. Om Suryawanshi, for Respondent No.6-MCGM.

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CORAM: G.S. KULKARNI,J.
DATED : 29th SEPTEMBER, 2021.

P.C:-

Heard learned Counsel for the parties.

2 The limited issue as raised by the Petitioner in challenging the impugned order dated 25th February, 2021 passed by the Hon'ble Minister (Revenue) is to the effect that such order has been passed without examining the preliminary objection of the Petitioner to the jurisdiction of the Hon'ble Minister (Revenue) to hear the Review Petition in relation to an order not passed by the Hon'ble Minister but by the Principal Secretary in exercising the power of review under Section 258 of the Maharashtra Land Revenue Code, 1966 (for short **'MLRC '**).

3 The dispute concerns land at Wadala, Mumbai which was leased out by the State Government in favour of the Municipal Corporation of Greater Mumbai and thereafter a sub-lease of the same was granted to the Petitioner. The Collector had issued a show cause notice to the Petitioners dated 17th August, 2010 and thereafter subsequent show cause notice dated 2nd January, 2012 came to be issued

for eviction of the Petitioner from the land in question.

4 The show cause notice was adjudicated by an order dated 20th September, 2012 passed by the Hon'ble Minister (Revenue). The Hon'ble Minister's order was challenged by the Petitioner in a Writ Petition before this Court (Writ Petition No. 2617 of 2012). The said Petition was allowed by an order dated 4th August, 2016 passed by the Division Bench of this Court. The Division Bench restored the proceedings to the file of the Government and directed the Secretary (Revenue and Forest) to hear the matter afresh, for an order to be passed in accordance with law.

5 In pursuance of the directions of this Court, the Principal Secretary (Revenue and Forest) decided the matter afresh by an order dated 27th August, 2019. Such order passed by the Principal Secretary has been taken up by the Hon'ble Minister (Revenue) in the review proceedings in question.

6 The Petitioner has appeared in the review proceedings as also has filed its reply, raising a preliminary objection to the hearing of the review proceeding by the Hon'ble Minister (Revenue), as it is the Petitioner's contention that the principal order subject matter of the review proceeding was passed by the Principal Secretary, hence, according to the Petitioner, the Hon'ble Minister would not have jurisdiction to exercise powers of review under Section 258 of the MLRC.

7 The grievance of the Petitioner is that by the impugned order passed by the Hon'ble Minister (Revenue), the Petitioner's objections on the jurisdiction of the Hon'ble Minister to hear the review petition have been rejected without granting the Petitioner an opportunity of being heard on the said issue.

8 Having heard the learned Counsel for the parties, in my opinion, the Petitioner ought to have been granted an opportunity of being heard on its objections by the Hon'ble Minister and an *ex-parte* order as contained in paragraph 1 of the operative order passed by the Hon'ble Minister ought not to have been passed.

9 It may be observed that the issue as raised by the Petitioner certainly required an appropriate hearing, as such contention as to the jurisdiction of the Hon'ble Minister to hear the review proceedings was categorically raised and incorporated in the Petitioner's reply to the review application.

10 It is informed that the Hon'ble Minister (Revenue) has listed the proceedings for tomorrow i.e. 30th September, 2021 and if the Hon'ble Minister (Revenue) hears the Petitioner without taking into consideration the objections as raised by the Petitioner as purportedly rejected by the impugned order, certainly a prejudice would be caused to the Petitioner.

11 In the above circumstances, in my considered opinion, the following order would meet the ends of justice:-

(i) Para 1 of the operative order dated 25th February, 2021 passed by the Hon'ble Minister stands quashed and set aside;

(ii) The objections of the Petitioner to the jurisdiction of the Hon'ble Minister to hear the review proceedings are restored to the file of the review proceedings. Such objection shall be considered by the Hon'ble Minister by granting an opportunity of a hearing, for appropriate orders to be passed in accordance with law.

(iii) All contentions of the parries on the merits are expressly kept open.

12 The learned AGP shall orally inform the above directions to concerned Officers of the State Government.

13 Petition is disposed of in the above terms. No order as to costs.

(G.S. KULKARNI,J.)