

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

284 WRIT PETITION NO.10126 OF 2022

ANIL VASANTRAO LUNGSE
VERSUS
STATE OF MAHARASHTRA,
THROUGH THE MINISTER FOR STATE REVENUE AND OTHERS

...

Advocate for Petitioner : Mr. Sanket N. Suryawanshi.

AGP for Respondent Nos.1 to 4 : Mr. S. K. Tambe.

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CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 14th November, 2022.

P.C.:

1. The petitioner has put forth prayer clause 'B' as under :-

“B) Direct the Respondent Authorities to re-enter the name of the petitioner in the records of Plot No.3150 and for that purpose issue necessary orders.”

2. We have considered the submissions of the learned advocate for the petitioner and the learned AGP on behalf of respondent Nos.1, 2, 3 and 4. Considering the order that we are passing, we are not required to issue notice to the parties.

3. The petitioner was before this Court in Writ Petition No.14561 of 2019. By an order dated 25th January, 2022, this Court quashed and set aside the impugned order. It would be apposite to reproduce

paragraph Nos.1, 2 and 3 of the said order hereunder:

“1. A limited grievance of the petitioner in the present petition is against an order passed by Respondent No.1 – The Minister of State (Revenue) in proceedings bearing No. RTS 3318/PK 215/J-6A dated 15.7.2019 and the foremost ground advanced by the counsel for the petitioner is to the effect that while allowing the Review Petition, petitioner, who was party to the original proceeding, was not even noticed or heard and necessarily the order impugned suffers from violation of principles of natural justice.

With the assistance of learned Counsel for the petitioner and learned Counsel appearing for Respondent No.5, when the impugned order is perused, the contention of the petitioner holds ground. The impugned order came to be passed by the Hon'ble Minister, which resulted in reviewing the earlier order dated 30.11.2016 and it is manifest that the petitioner is a party to the said review petition nor he was noticed and heard. Necessarily such an order, which is passed behind the back of the petitioner, affecting his interest, cannot be sustained and deserves to be quashed and set aside.

2. Learned Counsel for the petitioner submits that, in fact, the order dated 30.11.2016 came to be challenged before this Court in Writ Petition No.8056/2017 and the said order has been upheld on 6.8.2018 and his submission is, once the order under review has been upheld by this Court, it was not open for the Hon'ble Minister to review the said order, needs to be accepted. In

any case, it is open for him to raise an objection before the competent authority, i.e. Respondent No.1, on the matter being remanded and persuade, the authority to act in terms of the earlier order, which has been already upheld by the High Court in exercise of its writ jurisdiction.

3. As a result of the above, the impugned order dated 15.7.2019 is quashed and set aside and the proceeding in the form of RTS 3318 /PK 215/J-6A is remanded to Respondent No.1 for its determination.

Respondent No.1 is requested to take final decision upon the same within a period of three months from today, after affording an opportunity to all the concerned and whosoever is likely to be affected by the outcome of the said order.”

4. Since respondent No.1 did not take a final decision, as was directed by this Court, within a period of three months i.e. upto 25th April, 2022, that the petitioner is before us contending that his name be entered in the revenue records. It is further submitted that he is constrained to make this prayer since no decision is being taken and his rights over the properties are being jeopardized.

5. The learned AGP submits that considering the order dated 25th January, 2022, this Court has not concluded that the petitioner has a right to have his name entered in the records. Merely because respondent No.1 has not decided the proceedings as directed by this

Court, would not create a right in favour of the petitioner.

6. We cannot ignore that the petitioner is required to approach this Court for the second time since respondent No.1 is not taking any decision despite the directions of this Court. A contempt petition has also been filed by the petitioner.

7. In view of the above, this petition is disposed off with the direction that respondent No.1 shall decide the pending proceedings on it's own merits by passing a reasoned order, on or before 21st December, 2022.

8. We are informed that two hearings had been arranged by respondent No.1. We expect the said authority to grant an opportunity of hearing to all the contesting parties and deliver an order on or before 21st December, 2022.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]

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