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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2190 OF 2021**

Sukhdeo Pandurang Jadhav Petitioner.
V/s
The State of Maharashtra and Ors. Respondents.

Ms. Madhavi Ayyappan i/b Talekar & Associates for the Petitioner.

Mr. Ramesh Kamble for Respondent No.3.

Mr. Vinod N. Tayade for Respondent Nos. 4(B) and 4(E)

Mr. S.D. Rayrikar, AGP for Respondent Nos. 1 and 2.

CORAM: NITIN W. SAMBRE, J.

DATE: JUNE 13, 2022

P.C.:-

1] Heard.

2] Respondent – Arjun purchased vide registered Sale Deed dated 27th June, 1992 area to the extent of 2 Hectares and 88 Ares, mutation entry relating to which is a subject matter of challenge in the revenue proceedings. Since the Petitioner suffered concurrent findings before the revenue authorities, proceedings under Section 257 of the

Maharashtra Land Revenue Code were adopted before the Hon'ble Minister for Revenue, State of Maharashtra in which order impugned, thereby dismissing the Revision came to be passed on 22nd February 2021. The challenge to the said order is, though non-applicant No.2(c) namely Malan Vishnu Kadam has expired on 31st March, 2016, Application for bringing legal heirs of said Respondent on record was moved before the Revisional Authority. Without deciding the said Application, the Minister has proceeded to pass the impugned order, thereby dismissing the Revision. Though it is mentioned in the impugned order that written arguments were filed, however learned AGP on instructions from the State Government in compliance of the last order states that on record there were no written arguments placed. As such, it is claimed that order impugned is perverse as same is passed without considering the said fact.

3] In the aforesaid backdrop, it is claimed that if an opportunity is given to the Petitioner, within stipulated period legal representatives shall be brought on record before the Minister, subject to putting the Petitioner to reasonable condition and Revision can be heard afresh.

4] The aforesaid prayer is objected by Counsel for Respondent - Arjun . According to him, he is a bonafide purchase of the property by virtue of registered Deed. According to him, already suit property is mutated in the revenue record in the name of Respondent No.3 who was Respondent No.1 before the Minister. The learned Counsel would further urge that information of death of Respondent No.2(c) was well within the knowledge of the Petitioner and there was intentional delay in moving the Application for bringing legal heirs of Respondent No.2(c) on record and Respondent No.2(c) was closely related to the Petitioner. He would urge that Petition is liable to be dismissed.

5] The fact remains that the Petitioner moved an application for bringing on record legal heirs of Respondent No.2(c) which is acknowledged by the Office of Minister on 28/1/20221 as is apparent from the acknowledgment to that effect produced at page 105 of the Paper Book. As such, before passing the order impugned i.e. on 22/2/2021, the aforesaid Application was moved before the Minister and it was expected of the Minister to decide the same on its own merits. Though Counsel for Respondent No.3 has invited attention of this Court to the failure of the Petitioner to bring on record legal heirs

of Respondent No.2(c), in spite of assurance was given before the Minister during the course of hearing, however, there is no such order viz granting such permission on application for bringing legal heirs of Respondent No.2(c) on record. In the absence of permission to carry out the amendment, it was not possible for the Petitioner to carry out such amendment. Fact remains that Revision came to be decided without there being notice of hearing to the legal representatives of Respondent No.2(c).

6] However, this Court needs to be sensitive to the submissions of Counsel for Respondent No.3 that Petitioner and Respondent No.2(c) were closely related and application for bringing legal heirs of Respondent No.2(c) was moved at belated stage without citing any reasonable cause. It is brought to my notice that on the date of filing of the Revision, Respondent No.2(c) was already dead.

7] The learned AGP has also brought to my notice that though observed in the impugned order, Petitioner's written notes of arguments were not part of the record. As a consequence, order impugned is passed against the dead person without offering an

opportunity or giving notice to the LR's of such dead person. Order impugned is also contrary to record, as by making observations that Petitioner has also placed on record written notes of arguments the Revision is decided, though no such document was part of the record of Revisional Authority. Least that was expected of the authority while deciding the Revision is to consider oral arguments. The fact remains that oral arguments are also not considered and dealt with in the impugned order.

8] That being so, in my opinion, order impugned is not sustainable and same is required to be quashed and set aside. As such, following order is passed.

9] The order impugned dated 22/2/2021 is hereby quashed and set aside. Revision Application being RTS 3618/4731/C.N.16/J-5A stood restored to the file of the Minister for Revenue, State of Maharashtra. Application dated 28/01/2021 for bringing legal heirs of Respondent No.2(c) taken out in the said Revision Application stands allowed. Petitioner shall appear in the Office of the Minister with the copy of the present order on 27th June, 2022. Accordingly Revision be re-

registered and Petitioner be permitted to carry out the appropriate amendment, thereby incorporating legal heirs of Respondent No.2(c), subject to payment of costs of Rs 15,000/- to Respondent No.3. The aforesaid costs be paid to the Counsel for Respondent No.3 appearing before this Court within a period of four weeks from today and the acknowledgment to that effect be produced by the Petitioner in the pending Revision which will be condition precedent for deciding Revision on its merit. Let the Revision be decided expeditiously and in any case within a period of six months from the date of production of the order of this Court.

(NITIN W. SAMBRE, J.)