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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11118 OF 2022**

Smt. Shobha Vasant Bhoir & Anr. ... Petitioners
Versus
State of Maharashtra & Ors. ... Respondents

Mr. Rajendra Pai, Senior Advocate a/w Mr. Girish R. Agrawal for the
Petitioners.

Mrs. M. P. Thakur, AGP for the State.

Mr. Rohit Joshi for the Intervenor.

**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE : 22nd SEPTEMBER, 2022

P.C. :-

. The suo moto revision under Section 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (for short 'Act 1954') was initiated by the Settlement Commissioner against the petitioner. Under the impugned order the Sanad (conveyance) in favour of the petitioners are cancelled.

2. The learned AGP for respondents raises an objection that the petitioner has a remedy under Section 33 of the Act 1954.

3. The learned senior advocate for the petitioner submits that this Court has repeatedly held that under Section 24 of the Act 1954, the Settlement Commissioner does not have power to cancel the conveyance.

4. The learned senior advocate further submits that proper opportunity was not given to the petitioner to put forth their case in as much as the petitioners were supplied with the copies of the revision memo only on 11th April, 2022 and thereafter the matter was posted on 27th April, 2022 and on that date, further time was not given to file written statement though prayed and the matter was closed for orders. According to the learned senior advocate, the impugned order is passed in violation of the principles of natural justice.

5. According to the learned AGP six dates were given to the petitioners to file written say. However, the petitioners were prolonging the matter. Eventually, the order was passed by the respondent no.2.

6. We have considered the submissions.

7. The petitioner certainly has a remedy under Section 33 of the Act 1954 against the impugned order.

8. In normal course, we would not have entertained the petition and would have relegated the petitioner to avail the remedy as provided under the statute. However, as it has been contended that proper opportunity was not given to the petitioner, we have considered the petition.

9. It would appear that the revisional proceedings initiated by respondent no.2 under Section 24 of the Act 1954 were suo moto proceedings. The petitioners since 8th July, 2021 was asking for the revision memo and the annexures. The revision memo, it appears has been provided on 11th April, 2022 and thereafter the matter was kept on

19th April, 2022, on that date, the petitioners asked for the exhibits and also sought time for filing the written say. The matter was kept on 27th April, 2022 and on that date, written say was not filed and the matter was closed for orders.

9. Section 24 of the Act 1954 gives suo moto revisional powers to the Chief Settlement Commissioner. Sub-Section 3 of Section 24 provides that no order which prejudicially affects any person shall be passed under this Section without giving a reasonable opportunity of being heard.

10. In the present matter, it appears that the petitioners were given the copy of the suo moto revision only on 11th April, 2022 and the matter was closed for orders on 27th April, 2022.

11. Considering the above and the fact that the rights of the petitioners in an immovable property are involved, we are inclined to grant one more opportunity to the petitioners.

12. In the result, we pass the following order :-

- (i) The impugned order is quashed and set aside and the matter is relegated before the respondent no.2.
- (ii) The parties shall appear before the respondent no.2 on 10th October, 2022 and the say shall be filed before the respondent no.2 by the petitioners on or before 1st November, 2022. The respondent no.2 after hearing the petitioners and / or the interested party, shall take decision on its own merits and in accordance with law, expeditiously.

(iii) It is made clear that we have not considered the merits of the contentions of either parties, the same are kept open.

(iv) Writ Petition is disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]