IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12751 OF 2023

Sunil Sahebrao Deshmukh .Petitioner

Vs.

The State of Maharashtra & ors. .Respondents

Mr. Abhijit B. Kadam, Advocate, for the Petitioner
Mr. A. P. Vanarase, AGP, for the Respondent – State

CORAM : MADHAV J. JAMDAR, J.

DATE : 13.10.2023

P. C.

1. Heard Mr. Kadam, learned counsel appearing for the Petitioner and Mr. Vanarase, learned AGP appearing for the Respondent – State.

2. It is the contention of Mr. Kadam, learned counsel appearing for the Petitioner that by order dated 19.07.2023 passed by the Deputy Commissioner, Pune Division, Pune, the Revision Application challenging the legality and validity of the order dated 21.12.2015 passed by the Additional Collector, Solapur is rejected. He submits that the said order dated 19.07.2023 is challenged before the Hon'ble Revenue Minister, State of Maharashtra by filing Revision Application and the same

is pending and the Interim Application seeking stay in the said Revision is also pending. He submits that the Hon'ble Minister is neither considering the said Revision or the Interim Application seeking stay. He states that by the Judgment and Decree dated 01.04.2023 passed in R. C. A. No. 51 of 2017, counter claim filed by the present Petitioner i. e. Defendant No. 6 in Special Civil Suit No. 42 of 2009 (i. e. Appellant No. 7 in the said R. C. A. No. 51 of 2017) is allowed and it has been held that the Plaintiff has failed to prove that the Petitioner is not having title on the basis of the Sale Deed dated 24.06.2009 with respect to Gat No. 794 admeasuring 0 H 47 Acre and accordingly, the Counter Claim was allowed and injunction has been granted directing not to interfere with the possession of the Petitioner. He states that the impugned order dated 19.07.2023 by the Deputy Commissioner, Pune Division, Pune has been passed without considering the order passed by learned District Judge – 1, Malshiras, District – Solapur in R. C. A. No. 51 of 2017. He states that as the decree has been passed by the Civil Court in favour of the Petitioner, it is necessary that the Hon'ble Revenue Minister should consider the said Revision Application or Stay Application immediately, as the impugned order dated 19.07.2023 is passed contrary to the decree passed by the Civil Court.

3. Mr. Kadam, learned counsel appearing for the Petitioner also submits that before the Deputy Commissioner, Pune, the stay order was operating from 04.05.2016 till the decision of the Deputy Commissioner, Pune dated 19.07.2023. It is his contention that the said stay may be extended for a short period and the Hon'ble Revenue Minister may be directed to dispose of either the Revision Application or Stay Application in a time bound manner.

4. The dispute before the revenue authorities is concerning Mutation Entry No. 4102, by which the Petitioner's name is recorded in the revenue record with respect to land bearing Gat No. 794 admeasuring 0 H 47 Acre at Mouje Mandve, Taluka – Malshiras, District – Solapur. The said name is recorded in the revenue record on the basis of Sale Deed dated 24.06.2009. The said Mutation Entry was certified on 13.01.2010. The present Respondent No. 5 – Rahul Baban Padman challenged the legality and validity of said Mutation Entry by filing RTS Appeal No. 139 of 2010 under Section 247 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as "**the Code**") and the said Appeal was dismissed by S. D. O.,

Malshiras Division, Akluj dated 20.12.2010. The said order was challenged by filing RTS 2nd Appeal No. 14 of 2011 and allowed by order dated 21.12.2015 passed by the Collector, Solapur. The Petitioner challenged the same by filing RTS Revision No. 75 of 2016 before the Deputy Commissioner, Pune Division, Pune and also filed Stay Application. By order dated 04.05.2016, the said order dated 21.12.2015 was stayed and said stay was operating till passing of said order dated 19.07.2023. The said order is challenged before the Hon'ble Revenue Minister by filing Revision along with stay application and the same is not yet taken up even for considering the stay application.

5. In the above background, it is the only request of learned counsel appearing for the Petitioner that the Hon'ble Revenue Minister may either be directed to dispose of the Revision Application No. 1901/2023 J-5 in a time bound manner or at least the Stay Application preferred therein be considered and till that time, protection be granted.

6. Although reliefs prayed in the Writ Petition are larger, as only limited reliefs are sought by the Petitioner and only limited protection is sought, I am not issuing notice to

Respondents particularly, Respondent No. 5, who is the contesting Respondent.

7. In the facts and circumstances of this case and in the interest of justice, the Hon'ble Revenue Minister is requested to decide either the Revision Application or the Interim Application seeking stay in the Revision Application within a period of six weeks from the date of appearance of the parties. Till the said period, stay granted by the order dated 04.05.2016 passed by the Additional Commissioner, Pune Division, Pune which was operating till 19.07.2023 shall remain in operation. This order is passed, as the Civil Court has already decreed the Counter Claim filed by the present Petitioner, the said M. E. No. 4101, as certified by order dated 13.01.2010 is still in the revenue record and as the impugned order dated 19.07.2023 has been passed by the Deputy Commissioner, Pune Division, Pune on the basis of the trial Court's Judgment and Decree dated 08.09.2017 passed in Special Civil Suit No. 42 of 2009 and the same has been set aside by the learned Appellate Court on 01.04.2023 in R. C. A. No. 51 of 2017.

8. Accordingly, the Writ Petition is disposed of in the

following terms :-

O R D E R

(i) The Petitioner shall remain present before the Hon'ble Revenue Minister on 31.10.2023 at 11.00 a. m. either for hearing of the Revision Application No. 1901/2023 J-5 or for hearing of the Interim Application for stay preferred in the said Revision Application;

(ii) The Petitioner shall serve notice on all the Respondents in the said Revision Application of the said date of appearance before the Hon'ble Revenue Minister and file affidavit of service before the Hon'ble Minister;

(iii) The Hon'ble Revenue Minister either on that date or on any other convenient date shall consider the said Revision or Stay Application in the said Revision and either dispose of the said Revision Application or at least the Stay Application in the Revision Application or consider the ad-interim relief in the said Stay Application within a period of six weeks;

(iv) The order dated 04.05.2018 passed by the Additional Commissioner, Pune Division, Pune shall remain in operation for a period of six weeks from 31.10.2023;

(v) It is clarified that the contentions of both the parties on merits are expressly kept open. The Hon'ble Revenue Minister to decide the said Revision and/or Interim Application uninfluenced by the observations made in this order.

9. Liberty is granted to the contesting Respondents to take out Interim Application for recall/modification of this order, if necessary.

10. The Writ Petition is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)