IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5475 OF 2022

Leelavati Yashwant Bhosale and Ors. … Petitioners
versus
The State of Maharashtra and Ors. ... Respondents

Mr. Atul Damle, Sr. Advocate i/by Mr. Dushyant Purekar for Petitioners.
Mr. C.D.Mali, AGP for Respondent Nos.1 to 4.

CORAM: N.J.JAMADAR, J.

DATE : 30 MARCH 2023

P.C.

1. Heard the learned Counsel for the parties.

2. This Petition under Article 227 of the Constitution of India assails the legality, propriety and correctness of an order dated 23 November 2021 passed by the Revenue Minister in RTS 3420 of 290 Pra. Kra 51/J-5, whereby the Revision Application preferred by the Petitioners came to be rejected, affirming the order dated 18 September, 2019 passed by the Additional Commissioner, Pune, in Appeal No.A/JAMIN/PUNE/455/2018.

3. The Petitioners had preferred an Application before the Additional Collector, Pune being RTS Revision No.599 of 2015, seeking correction in the survey settlement in respect of CTS No.1335 (Old Survey No.131/2) and Survey No.124/6. The Application came to be allowed by an order dated 3 May 2016.

4. The State Government assailed the said order before the Additional

Commissioner, Pune in Appeal No.A/JAMIN/PUNE/455/2018. The Additional Commissioner, Pune by his order dated 18 September 2019 was persuaded to allow the Appeal and set aside the order passed by the Additional Collector dated 3 May 2016, inter alia, on the ground that the Additional Collector had no power to correct the area or assessment of a survey settlement under Section 106 of the Maharashtra Land Revenue Code, 1966.

5. The Petitioners carried the matter in Revision before the State Government. By the impugned order dated 23 November 2021, the Revenue Minister rejected the Revision Application, affirming the view of the Additional Commissioner, Pune.

6. Being further aggrieved, the Petitioners have invoked the writ jurisdiction of this Court.

7. The learned Senior Advocate for the Petitioners submits that the Petitioners are not averse to approach the Collector for correction in the survey settlement. The learned Senior Advocate thus submits that the Collector may be directed to decide the Application which will be made by the Petitioners, uninfluenced by the observations made by the authorities below.

8. Since the Additional Commissioner as well as the Revenue Minister have proceeded primarily on the premise that the Additional Collector has no power to correct the survey settlement under Section 106 read with Section 135 of the Code,

1966, it may be expedient to allow the Petitioners to file a fresh application seeking correction in the survey settlement before the District Collector, Pune.

9. In the event such an application is filed, the District Collector, Pune, shall decide the same on its own merits and in accordance with law without being influenced by the observations made in the orders passed by the authorities below.

10. The Petition stands disposed with the aforesaid liberty.

11. It is clarified that, this Court has not entered into the merits of the matter and all contentions of all the parties are kept open for consideration.

(N.J.JAMADAR, J.)