SANTOSH SUBHASH KULKARNI
Digitally signed by SANTOSH SUBHASH KULKARNI
Date: 2023.04.10 19:07:45 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5499 OF 2022

Shubhangi Shamsundar More (deceased)
through LR Parag Shamsundar More & ors. ...Petitioners

Versus

The State of Maharashtra and ors. ...Respondents

Mr. Jaydeep Deo, for the Petitioners.
Mr. S. D. Rayrikar, AGP for the State/Respondent No.1
Mr. Rahul Kadam, for Respondent Nos.2 to 6.

CORAM: N. J. JAMADAR, J.
DATED : 6th APRIL, 2023

ORDER:-

1. This petition assails the legality, propriety and correctness of an order dated 6th December, 2021 passed by the Minister (Revenue) in Revision Application No.RTS/3421/1944/Case No.206/J-5, whereby the revision application came to be allowed by setting aside an order dated 29th July, 2021 passed by Additional Commissioner, Pune Division in RTS/REV No.217/2020.

2. The petitioners mother had purchased agricultural land bearing Gat No.577/1C situated at Saswad, Taluka Purandar, District Pune (the subject land) from Shripati Ganpat More the predecessor-in-title of the respondent on 13th May, 1986. Her name was mutated in the record of right by Mutation Entry No.15558.

3. Few of the private respondents filed RTS Appeal, bearing No.85/2007, before the Sub-Divisional Officer, Bhor, Pune. By an order dated 18th March, 2018 the said appeal was allowed Mutation Entry No.15558 was ordered to be cancelled.

4. Petitioners preferred an appeal before the Additional Collector, Pune, being RTS Appeal No.165/2008. By a judgment and order dated 3rd May, 2008 the said appeal was partly allowed with a direction to enter the name of the respondents in the other rights column.

5. The petitioners as well as the respondents assailed the said order by preferring revision before the Divisional Commissioner, Pune. The petitioners revision is subjudice whereas the RTS Revision Application No.422 of 2011 preferred by the respondents came to be dismissed for want of prosecution.

6. Petitioners assert, concealing the aforesaid fact the private respondents preferred second revision application being RTS/REV/Application No.217 of 2020 before the Additional Divisional Commissioner, Pune. The Additional Divisional Commissioner by a judgment and order dated 29th July, 2021 dismissed the said revision application on the ground that there was delay of more than 10 years.

7. Being aggrieved, the private respondents preferred a further revision before the State Government. By the impugned judgment and order, the Minister (Revenue) was persuaded to allow the revision application by setting aside the order passed by the Additional Divisional Commissioner and thereby condone the delay in preferring RTS Revision Application No.217 of 2020 before the Divisional Commissioner.

8. Being aggrieved, the petitioners have invoked the writ jurisdiction of this Court.

9. Mr. Deo, the learned Counsel for the petitioners, submitted that both the authorities below have not adverted to the fundamental objection of the petitioners that a second revision application at the instance of the applicants/ respondents, who were the revision applicants in RTS Revision Application No.422 of 2011, which came to be dismissed for want of prosecution by an order dated 14th September, 2015, was legally untenable. In any event, the Minister (Revenue) could not have interfered with the order passed by the Additional Commissioner rejecting the revision application on the ground that there was a delay of more than 10 years, in exercise of limited revisional jurisdiction. Mr. Deo submitted that no cause much less a sufficient one was ascribed for condonation of such huge delay.

10. I have perused the impugned order. The Minister (Revenue) has not ascribed reasons which persuaded him to allow the application. A singular sentence in paragraph 6.4 of the impugned order that there are substantial and justifiable reasons for interfering with the order impugned before him can qualify, at best, as a reason. In a sense, the impugned order singularly lacks reasons for condonation of delay of more than 10 years. Whether the cause was such that the respondents – applicants were prevented from filing the revision application, even if it was held to be tenable, had not at all been considered by the Minister (Revenue).

11. Faced with the aforesaid situation, Mr. Kadam, the learned Counsel for respondent Nos.2 to 6 fairly submitted that it would be difficult to support the impugned order.

12. Resultantly, the petition deserves to be allowed.

13. Hence, the following order:

: O R D E R :

(i) The petition stands partly allowed.

(ii) The impugned order passed by the Minister (Revenue) in RTS/3421/1944/Case No.206/J-5 dated 6th December, 2021 stands set aside.

(iii) RTS Revision Petition No.RTS/3421/1944/Case No.206/J-5 is remitted back to the State Government for a fresh decision after providing an efficacious opportunity of hearing to the parties and ascribing reasons.

(iv) By way of abundant caution, it is clarified that this Court had not entered into the merits of the matter and all contentions of the parties, including the question of tenability of the RTS/REV No.217 of 2020, are kept open for consideration.

Petition stands disposed.

No order as to costs.

[**N. J. JAMADAR, J.**]