

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10930 OF 2022

Vijay Nathu Mirkute

...Petitioner

vs.

The State of Maharashtra and Others

...Respondents

Mr. Hitesh Vyas, for the Petitioner.

Mr. Bhushan Deshmukh a/w. Mr. H.N. Vakil, Ms. Shriya Mehta i/b.
Mulla & Mulla and Craigie Blunt & Caroe, for Respondent No. 2.

Mr. C.D. Mali, AGP for the State.

CORAM : N. J. JAMADAR, J.

DATE : JULY 06, 2023

P.C.:

1. The learned counsel for the petitioner seeks leave to tender an affidavit in rejoinder.
2. Leave granted.
3. Affidavit in rejoinder is taken on record.
4. Heard the learned counsel for the parties.
5. The challenge in this petition is to an order passed by the learned Dy. Director, Land Record, Pune in R.T.S. Appeal No. 4368 of 2018 under section 247 of the Maharashtra Land Revenue Code wherein the Dy. Director, Land Records was persuaded to set aside the order dated 25th September, 2017 passed by the District Superintendent, Land Records by which order the District Superintendent of Land Records had cancelled the measurement in

respect of the land bearing survey No. 15, village Shedani, Tal. Mulshi, Dist. Pune.

6. The learned AGP, submits that the petitioner has an efficacious remedy under section 257 of the Code of assailing the order passed in appeal by preferring a revision before the State Government.

7. The learned counsel for respondent No. 2 submits that the respondent No. 2 would suffer prejudice if the matter is disposed with liberty to the petitioner to file a revision while continuing the ad-interim relief granted by this Court by an order dated 21st March, 2023 in terms of prayer clause (c). The learned counsel for respondent No. 2 submitted that the petitioner's claim is restricted to a minuscule portion of land in proportion to 745 acres of land the respondent No. 2 holds.

8. By the ad-interim order, this Court has restrained the respondent No. 2 from acting on the basis of the measurement which came to be revived by the impugned order. The learned counsel further submitted that the petitioner has the remedy of either getting his land measured or having nimtana measurement of the entire land of respondent No. 2 by paying requisite fees.

9. From the perusal of the impugned order as well as the order passed by the District Superintendent of the Land Records which

came to be set aside, by the impugned order, it appears that the issue of measurement requires consideration.

10. Since the petitioner has an efficacious statutory remedy, it may be expedient to dispose of the petition with liberty to the petitioner to file a revision against the impugned order under section 257 of the Code before the State Government.

11. So far as the prejudice which the respondent No. 1 claims to suffer on account of continuation of ad-interim order passed by this Court, the same can be taken care of by directing the State Government to decide the revision as expeditiously as possible and preferably within a period of three months from the date scheduled for the appearance of the parties.

12. It is pertinent to note that the District Superintendent of Land Records had set aside the measurement by an order dated 25th September, 2017 and the measurement thus stood suspended till the same came to be revived by the impugned order.

13. In the circumstances, the petition stands disposed with liberty to the petitioner to assail the impugned order before the State Government, in revision.

14. The petitioner shall file revision petition before the State Government within a period of four weeks from today.

15. The time spent by the petitioner in prosecuting this petition

shall be accounted for under section 14 of the Limitation Act in the event the issue of limitation arises to entertain the revision application.

16. In the event such revision application is filed within the afore-stipulated period, the ad-interim relief granted by this Court shall continue to operate for a period of three months from today.

17. The State Government shall make an endeavour to decide the revision application as expeditiously as possible and preferably within a period of three months. In the event, it is not possible to decide the said application within the stipulated period, the State Government shall decide application for interim relief.

18. With the aforesaid clarification, the petition stands disposed.

19. It is hereby made clear that this Court has not entered into the merits of the matter and all contentions are kept open for consideration by the State Government.

(N. J. JAMADAR, J.)