2024:BHC-AUG:15632

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

964 WRIT PETITION NO. 5039 OF 2020

Gayabai Vitthal Udage And Another
VERSUS
The State Of Maharashtra And Others
...
Advocate for the Petitioner : Mr. C V Thombre
AGP for Respondent nos.1-4 : Mr. S N Kendre
None appears for Respondent nos.5 and 6
...

CORAM : S. G. CHAPALGAONKAR, J.
Dated : July 23, 2024

PER COURT :-

1. Petitioners impugns the order dated 17.9.2019 passed by the Hon'ble Minister for States in appeal no. 2018/Case No.430/J-7-A, the order dated 28.1.2008 passed by Respondent No.3-Superintendent of Land Records, Osmanabad and the order dated 8.4.2009 passed by Respondent No.2-Deputy Director of Land Records, Aurangabad in case No.Appeal/Sr.-690/08.

2. Mr. C.V. Thombre, learned advocate appearing for the petitioners submits that the revision application filed under section 257 of the Maharashtra Land Revenue Code has been entertained after nine years in absence of independent application for delay condonation or any prayer to that effect. He points out that in revision application, no reasons sufficient to condone the delay are given. He would further point out that title clause of the proceedings before the Hon'ble Minister

refers it as appeal, however, the order passed shows that the revisional powers are exercised by the State Government. He would therefore submit that the order passed after nine years, in exercise of revisional jurisdiction needs to be quashed and set aside.

3. Inspite of service of notice for final disposal, none appears for respondent no.5 and 6.

4. Learned AGP, however, supports the order and contends that petitioner can establish rights before the Civil Court and no interference is called for in writ jurisdiction of this Court.

5. Having considered the submissions advanced, it is apparent that the order passed by the Deputy Director of Land Records in exercise of appellate jurisdiction was subjected to challenge before the Hon'ble Minister. It shows that powers under section 257 of the Maharashtra Land Revenue Code have been exercised, although it is titled as appeal. Section 257 of the Maharashtra Land Revenue Code do not provide specific limitation to entertain the revision application filed before the State Government. However, it is now well settled that exercise of revisional jurisdiction can be resorted to within the reasonable period i.e. three years. The law appears to be fairly settled by catena of judgments. The Supreme Court of India in case of ***Ram Chand : Ved Prakash Vs. Union of India reported in 1994 (1) SCC 44, State of Punjab and others Vs. Bhatinda District Cooperative Milk Producers Ltd reported in (2007) 11 Supreme Court Cases 363*** enunciated aforesaid principle and

lastly elaborated in case of ***Santoshkumar Shivgonda Patil and others Vs. Balasaheb Tukaram Shevale and others reported in 2009 (9) SCC 352.*** Paragraph no.16 refers thus :-

> *"16. It seems to be fairly settled that if a statue does not prescribe the time limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein. Ordinarily, the reasonable period within which power of revision may be exercised would be three years under Section 257 of the Maharashtra Land Revenue Code subject, of course, to the exceptional circumstances in a given case, but surely exercise of revisional power after a lapse of 17 years is not a reasonable time."*

6. In the present case, proceeding is instituted after the period of nine years. The order impugned nowhere depicts that any explanation was given for such inordinate delay and that has been accepted by the Hon'ble Minister.

7. In that view of the matter, the impugned order passed by the Minister cannot be sustained in law. Hence, following order :-

O R D E R

i. Writ Petition is **allowed.**

ii. The impugned order dated 17.9.2019 passed by the Hon'ble Minister in Appeal no.2018/Case No.430/J-7-A is quashed and set aside.

iii. Writ Petition stands disposed off. No costs.

(S. G. CHAPALGAONKAR)
JUDGE

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aaa/-