



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11672 OF 2023**

Shivajirao A. Shende Decd through LR

.....Petitioner

Vs.

The State of Maharashtra through
Minister of Revenue and Ors

.....Respondents

Mr. Kuldeep Nikam i/b Mr. Graham Francis for the petitioner
Mr. Amit Sale i/b Mr. Deepak Bharat Patil for respondent no. 6
Mr. P. V. Nelson Rajan, AGP for the State

CORAM : GAURI GODSE, J.

DATE : 12th MARCH 2024

P.C.

1. This petition takes an exception to the order dated 24th August 2023 passed by respondent no. 1. Learned counsel for the petitioner submitted that the order impugned in the petition is passed by the learned Minister dismissing the revision application which was filed by the deceased petitioner i.e. Shivajirao Shende. He submitted that Shivajirao expired on 6th May 2022 i.e. during the pendency of the revision filed before the State Government. He submitted that on 2nd

June 2023, present petitioner received a notice of hearing informing that revision application filed by Shivajirao Shende was fixed for hearing on 12th June 2023. He submitted that inadvertently, petitioner instead of attending the hearing fixed in Mantralaya, Mumbai, had attended the office of Divisional Commissioner, Konkan Division at Belapur. However, as soon as the petitioner learnt about the mistake, petitioner through his advocate appeared before the learned Minister on 12th June 2023 at 6.45 p.m. requesting to hear the revision application, however, he was informed that the order is already passed in revision application.

2. Learned counsel for the petitioner relied upon an application which was prepared on behalf of the petitioner for adding her as heir and legal representative of deceased Shivajirao Shende alongwith supporting affidavit affirmed on 11th June 2023. Learned counsel for the petitioner thus submitted that pursuant to the notice received intimating the date of hearing on 12th June 2023, the petitioner did prepare an application for bringing on record the name of heir and legal representative of deceased Shivajirao Shende alongwith

supporting affidavit, however, only due to confusion in reading the address, inadvertently, the petitioner reached the office of Divisional Commissioner at Konkan Division at Belapur instead of attending the office of learned Minister at Mantralaya, Mumbai. He further submits that the said error is sought to be rectified by appearing on the same day before the learned Minister, however, the request was not entertained, on the ground that the order was already passed.

3. Learned counsel for the petitioner pointed out the impugned order and submitted that the impugned order records the death of original revision applicant i.e. Shivajirao Shende and considering the fact that the heirs and legal representatives are not brought on record, the revision application was dismissed. Learned counsel for the petitioner thus submitted that considering the peculiar facts and circumstances of the case, the petitioner be permitted to be brought on record and prosecute the revision application filed by original revision applicant i.e. Shivajirao Shende.

4. Learned counsel appearing for respondent no. 6 opposed the said application on various grounds. Learned counsel submitted that

there are criminal prosecutions initiated against the petitioner as an allegation of impersonation of respondent no. 6 is made. He submits that considering the conduct of the petitioner, she does not deserve any favourable orders from this Court.

5. Since the main grievance of the petitioner is regarding non appearance on the relevant date before the learned Minister, I do not find it necessary to examine the rival contentions of the parties on merits. Perusal of the impugned order indicates that revision application is dismissed mainly on the ground that original revision applicant i.e. Shivajirao Shende has expired. Perusal of the application dated 11th June 2023 alongwith supporting affidavit indicates that the petitioner did make an attempt to appear in the revision application and file an application for bringing on record name of the petitioner in place of deceased revision applicant. It appears that only due to the issue of the error in reading the address of the hearing of the revision application, the petitioner was unable to attend the hearing before the learned Minister in time.

6. However, the petitioner through her advocate appeared before

respondent no. 1, on the same day, but she was not heard only on the ground that order was already passed. Hence, in my view, without examining the rival contentions of the parties on merits, it is in the interest of justice that the petitioner is permitted to appear before the learned Minister and prosecute the revision application filed on behalf of the deceased Shivajirao Shende.

7. Since learned counsel for respondent no. 6 has also objected on the petitioner's right to claim to be heir and legal representative of deceased Shivajirao Shende, respondent no. 6 shall be at liberty to raise objection to the application of the petitioner for bringing on record present petitioner as heir and legal representative of the original deceased revision applicant.

8. Hence, for the reasons recorded above, petition is partly allowed by passing the following order:

ORDER

- (i) Order dated 24th August 2023 passed by respondent no. 1 in RTS-3719/10291/Pra.Kra.265/J-5 is quashed and set aside and the revision application is restored to the file

of respondent no. 1.

(ii) Petitioner is at liberty to file application dated 12th June 2023 alongwith supporting affidavit before respondent no. 1.

(iii) Respondent no. 6 is at liberty to file her reply to the application dated 12th June 2023. Application dated 12th June 2023 of the present petitioner be decided in accordance with law after giving an opportunity of hearing to the parties.

(iv) Depending upon the result of application dated 12th June 2023, further orders be passed on the main revision application.

(v) It is clarified that I have not examined the rival contentions of the parties on merits of the revision application as well as application dated 12th June 2023 and all contentions of all parties are kept open.

(vi) To enable the petitioner to make appropriate application for interim relief before the learned Minister, order dated 19th August 2019 passed by the learned Minister and continued by this Court on 11th October 2023 is continued for a period of 6 weeks from today.

(vii) Writ Petition is disposed of in above terms.

(viii) Parties are at liberty to appear before the learned Minister on 22nd March 2024 for requesting to fix the further schedule of hearing.

7. Writ petition is disposed of in above terms.

[GAURI GODSE, J.]