Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3576 OF 2024

Jalindar Ramchandra Yewale & Ors ... Petitioners
V/s.
Vijay Rakhamji Gade & Ors ... Respondents

Mr. Milind Parab, for Petitioners.
Mr. Satyajeet P. Chavan, for Respondents.

CORAM : AMIT BORKAR, J.

DATED : MARCH 20, 2024

P.C.:

1. The petitioner is challenging an order passed by respondent No.5 dismissing petitioners revision arising out of proceedings under Section 149 and 150 of the Maharashtra Land Revenue Code, 1966.

2. Respondent Nos.1 to 3 based on sale deed executed in their favour applied for entry of their names in the revenue record. The Circle Officer by the order dated 28 October 2007 entered respondent Nos.1 to 3's names in the revenue record.

3. The petitioner in 2018 filed an Appeal before the Sub-Divisional Officer challenging order passed by the Circle Officer in the year 2007. The application for condonation of delay contains the reason that the petitioner was not aware of the passing of order by the Circle Officer. The Sub-Divisional Officer allowed petitioners Appeal on merits and directed that the petitioners name to the extent of ½ share be included in relation to property in dispute.

4. Respondent Nos.1 to 3 challenged the order of Sub-Divisional Officer before the Additional Collector. The Additional Collector by an order dated 23 November 2020 dismissed the Appeal. Respondent Nos.1 to 3 challenged the order of the Additional Collector before the Commissioner under Section 257 of the Maharashtra Land Revenue Code, 1966. The Commissioner by an order dated 14 October 2021 allowed the revision by confirming the order of the Circle Officer. The petitioners second revision under Section 257 of the Maharashtra Land Revenue, Code 1966 has been dismissed by the impugned order. Respondent No.1 filed this present writ petition.

5. Learned Advocate for the petitioners submitted that the Commissioner has considered merits of the matter, in addition to the justification for condoning delay of 12 years in filing the Appeal. He, therefore, submitted that at the most the Commissioner could not have considered the delay in filing an Appeal before the Sub-Divisional Officer and could not have considered merits of the matter.

6. The power of the Circle Officer under Section 149 and 150 of the Maharashtra Land Revenue Code, 1966 is restricted to ascertain the existence of acquisition of right over the immovable property. Respondent Nos.1 to 3 claim of that their names be entered in the revenue record based on registered sale deed. Therefore, the Circle Officer was under obligation to enter the names of respondent Nos.1 to 3 based on registered sale deed. Moreover, the reason assigned in the application for condonation of delay of 12 years in challenging such entry affected by the Circle Officer could not have been termed as sufficient case for reopening the matter after 12 years. In my opinion, the reason mentioned in the application for condonation of delay cannot be termed as sufficient cause.

7. It is well settled that the revenue record entries neither create and / or extinguish right over the immovable property. In absence of creation and / or extinguishment of substantive rights over the immovable property in a proceedings under Section 149 and 150 of the Maharashtra Land Revenue Code, 1966 and on overall view of the matter, no case for interference under extraordinary constitutional jurisdiction is made out. Hence, the writ petition is dismissed.

(AMIT BORKAR, J.)