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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.12460 OF 2018
WITH
CIVIL APPLICATION (ST.) NO.20975 OF 2019
IN
WRIT PETITION NO.12460 OF 2018**

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Shreeram Enterprises Through Partner
Jagdish Hari Thakur ... Petitioner
V/s.
Yashwant Jaganath Mhatre & Ors. ... Respondents

**WITH
CONTEMPT PETITION NO.504 OF 2023
IN
WRIT PETITION NO.12460 OF 2018**

Shreeram Enterprises Through Partner
Jagdish Hari Thakur ... Petitioner
V/s.
Yashwant Jaganath Mhatre & Ors. ... Respondents

Mr. Pradeep Thorat and Mr. Sunil Lahane and Ms.
Mekhala More I/BY The Jiris Partners for the
petitioner/applicant.

Mr. Satyajeet A. Rajeshirke with Mr. Gautam R.
Kulkarni for respondent No.1.

Mr. Harshad Palwe with for respondent Nos.2 and 4.

Abhishek Deshmukh for respondent Nos.5a to 5h.

Mr. Ashish Gaikwad with Mr. Anirudh Rote for
respondent No.3.

Mr. S. D. Rayrikar, AGP for the State/respondent No.7.

CORAM : AMIT BORKAR, J.

DATED : APRIL 15, 2024

P.C.:

1. The petitioner is challenging order dated 16 October 2018 passed by respondent No.7/Minister allowing revision application filed by respondent Nos.1 to 4 in turn challenging order passed by the Additional Commissioner, Konkan Division arising out of order passed by the Sub-Divisional Officer in a proceeding purportedly initiated under section 257 of the Maharashtra Land Revenue Code, 1966.

2. The Tehsildar, Ambernath, by a communication dated 16 April 2013, made a report to the Sub-Divisional Officer, Ulhasnagar for recording entries of sub-division in Form No.12. The Sub-Divisional Officer, by order dated 16 November 2015, directed entry of name of predecessor of respondent No.2 in the 7/12 extract and further directed Deputy Inspector of land Records, Ambernath to carry out measurement of new sub-divided property in Form No.12.

3. The order passed by the Sub-Divisional Officer was challenged before the Collector; however, the Collector dismissed the appeal. Hence, the petitioner approached the Additional Commissioner, Konkan Division, who, by order dated 17 October 2017, set aside the order dated 19 November 2016, but further directed the Tehsildar to cancel mutation Entry Nos.1016, 1101 and 1201.

4. Respondent Nos.1 to 4, therefore, challenged the order of

the Additional Commissioner before respondent No.7/Minister. Respondent No.7/Minister, by the impugned order, set aside the order of the Additional Commissioner. Hence, the petitioner has filed present writ petition.

5. On perusal of the record, it appears that the initiation of proceedings which gave rise to filing of present writ petition, was based on a report submitted by the Tehsildar for sub-division of Survey No.128/1 as per measurement carried out and consequent entry in Form No.12. The power invoked by the Tehsildar was under section 257 of the Maharashtra Land Revenue Code, 1966.

6. Section 257 of the Maharashtra Land Revenue Code, 1966 confers revisional power on State Government or any other revenue or Survey Officer to call for record and proceedings of any inquiry for the purpose of satisfying itself about legality and propriety of decision or order passed. On perusal of the order passed by the Sub-Divisional Officer, it appears that no order or decision of subordinate officer was placed before the Sub-Divisional Officer for satisfying itself about validity and propriety of exercise of such power. Moreover, proviso to Sub-section (1) of section 257 of the Maharashtra Land Revenue Code, 1966 restricts exercise of such power by revenue or survey officers otherwise than the State Government for period of five years from the date of decision or order. Therefore, the Sub-Divisional Officer could not have entertained report from the Tehsildar to exercise power under section 257 of the Maharashtra Land Revenue Code, 1966. Once the initiation of proceeding was barred in law, all subsequent orders passed by the Collector, Additional Commissioner and the

Minister cannot be sustained.

7. Hence, impugned order dated 16 October 2018 passed by respondent No.7/Minister, order dated 17 October 2017 passed by the Additional Commissioner, Konkan Division, order dated 16 November 2015 passed by the Sub-Divisional Officer, Ulhasnagar and order dated 19 November 2016 passed by the Additional Collector are quashed and set aside.

8. The writ petition stands disposed of in above terms.

9. It is made clear that this Court has not considered the contentions raised by the parties on merits and it shall be open for both the parties to raise all contentions before appropriate authorities/courts for ventilation of their rights.

10. In view of disposal of the writ petition, the civil application(s) and the contempt petition do not survive. The same stand disposed of as infructuous.

(AMIT BORKAR, J.)