IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9407 OF 2019

Kamlabai Sarjerao Rokde ....Petitioner

VERSUS

The State of Maharashtra & others .....Respondents

.....
Mr. Y. V. Kakde, Advocate for the Petitioner.
Mr. B. B. Bhise, AGP for the State.
Mr. S. R. Andhale, Advocate for Respondent No. 8

CORAM : KISHORE C. SANT, J.
DATE : 19th NOVEMBER, 2025.

PER COURT :

1. Heard learned Advocates for the parties.

2. By consent, taken up for final disposal.

3. A very short question involved in the Petition is about the maintainability of the proceeding before the Minister and the legality of the order passed by the Minister.

4. The Petitioner is aggrieved by order passed by the learned Minister dated 16.08.2019 in RTS No. 33/2019/Pr.K./144/J-

6 whereby he quashed the proceeding of RTS No. 166/2019. RTS No. 166/2019 filed before the Collector was challenging the judgment and order passed by the learned SDO dated 01.02.2019 in RTS Appeal No. 4/2018 whereby he allowed the Appeal of the present Respondent No. 8.

5. Mr. Kakde, learned Advocate for the Petitioner, vehemently argued that the order passed by the Minister is totally without jurisdiction. Under the law, there is no such remedy provided before the Minister. The Minister is not vested with the power to quash the proceeding pending before any subordinate authority. He submits that Section 257 of Maharashtra Land Revenue Code only gives powers to challenge the decision or order passed by the authority and it is only under such cases, he can call for the record and proceeding and see as to whether the proceeding is rightly conducted and to consider regularity of the proceeding. He thus, submits that the impugned order deserves to be quashed and set aside by restoring Appeal bearing RTS No. 166/2019 before the Collector.

6. Learned Advocate Mr. Andhale vehemently argued that the Petitioner had no locus standi. He invited attention of the Court to the order passed by the learned SDO wherein the learned SDO has clearly observed that the present Petitioner has failed to show any relation with deceased Rambhau Pawar. By representing that she happens to be the sister of deceased, she got her name entered in the revenue record. He submits that the learned SDO had rightly cancelled the mutation entry No. 7249 taken in the record of village Hadgaon Tq. Shevgaon. It is submitted that the Appeal before the Collector is totally without locus and the learned Minister has therefore, rightly passed the order.

7. This Court has seen the scheme of Section 257 of the Maharashtra Land Revenue Code. This section gives powers to the State Government and certain revenue and survey officers to call for and examine record and proceeding of subordinate officer. Sub-section (1) of Section 257 reads as under :-

> **257. Power of State Government and of certain revenue and survey officers to call for and examine records and proceedings of subordinate officers :**
> (1) The State Government and any revenue or survey officer, not inferior in rank to an Assistant or Deputy

> Collector or a Superintendent of Land Records, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate revenue or survey officer, for the purpose of satisfying itself or himself, as the case may be, as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.
>
> Provided that, no such proceedings under this sub-section or sub-section (2) shall be initiated by any revenue or survey officer after expiry of a period of five years from the date of decision or order of the sub-ordinate officer [except with the previous permission of the State Government.]

Learned Advocate Mr. Andhale also places reliance on sub-section (4) of Section 257 which reads as under :-

> [(4)(1) Revision of an order issued under sub-section (1) or (2) by any officer referred to therein shall not be permissible; but it shall be lawful for the State Government alone to modify, annual or reverse any such order issued under sub-section (1) or (2).]

8. By reading above part of section, this Court hardly finds that there is any power available to the Minister to quash the proceeding pending before any subordinate authority. Right of appeal is a substantive right vested in the party. When the party is availing

the substantive right of appeal, as conferred upon any of the authorities under Maharashtra Land Revenue Code, the same cannot be taken away under the garb of exercising powers under Section 257. No superior authority can interfere with the proceeding pending before the inferior authority except provided by the law. In the present case, admittedly, no appeal or decision as such was under challenge before the Minister. Thus, the revision itself was without any cause of action.

9. This Court does not find anything giving power to the Minister to pass such order. This Court is, therefore, convinced that the Minister has exceeded power by passing the impugned order. The impugned order, therefore, deserves to be quashed and set aside.

10. In view of the above, the Writ Petition stands allowed in terms of prayer clause ‘B’. The Appeal pending before the Collector stands restored to its original file bearing RTS No. 166/2019. Since Appeal is pending since 2019, the learned Collector is expected to decide the same within a period of three months from today. Parties to cooperate in the speedy disposal. Needless to say that the Collector shall consider all the questions including question of locus.

All the points are kept open. Record, if called, be sent back to the concerned authority. Parties to appear before the Collector on 01.12.2025 without requiring notice by the Collector.

(KISHORE C. SANT)
Judge

dyb