(2015) 03 BOM CK 0395

In the Bombay High Court

Case No : W.P. No. 514 of 2015

Arun Bhanudas Ubhad and Others — APPELLANT

Vs

Additional Commissioner, Amravati Division and Others — RESPONDENT

Date of Decision : 31-03-2015

Acts Referred:
Maharashtra Land Revenue Code, 1966 — Section 249, 249(2), 257

Citation : (2015) 5 MhLj 493

Hon'ble Judges : R.K. Deshpande, J.

Bench : Single Bench

Advocate : K.P. Mahalle, for the Appellant; Rashi A. Deshpande, AGP, for the Respondent

Final Decision : Allowed

Judgement

R.K. Deshpande, J.—Rule, made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties. The challenge in this petition is to the order dated 1-1-2015 passed by the Additional Commissioner treating revision filed under section 257 of the Maharashtra Land Revenue Code, 1966 as an appeal filed under section 249 of the Maharashtra Land Revenue Code, 1966 ("MLR Code"). The question is of the jurisdiction of the Additional Commissioner to pass such an order.

2. The undisputed factual position is that the mutation entries were recorded in the name of the petitioners by an order passed by Sub Divisional Officer on 4-1-1994. Revision under section 257 of the Maharashtra Land Revenue Code was preferred before the Collector on 4-5-2006, the same was dismissed on 5-5-2008 maintaining the order passed by the Sub Divisional Officer. The respondent Nos. 2 to 5 again preferred another revision under section 257 of the MLR Code on 26-5-2011 challenging the order passed by the Collector on 5-5-2008. When it was noticed that such revision was not maintainable, an application was moved on 18-9-2012 by the respondent Nos. 2 to 5 for grant of permission to convert the revision into an appeal under section 249 (2) of the

MLR Code. This has been allowed by the impugned order dated 1-1-2015 by the Additional Commissioner, which is the subject-matter of challenge in this writ petition.

3. After dismissal of the revision under section 257 by the Additional Collector on 5-5-2008, second revision under section 257 filed on 26-5-2011 was not maintainable. An appeal can be preferred against the order passed in revision under section 257 of the MLR Code only if an order passed in revision varies or reverses any order passed by the lower authority in terms of sub-section (2) of section 249. In the present case, the Additional Collector dismissed the revision under section 257 on 5-5-2008 and the order passed by the Sub Divisional Officer on 4-1-1994 was neither varied nor reversed. In view of this, the order of conversion of revision into an appeal cannot be sustained. The same is required to be set aside.

4. In the result, the writ petition is allowed. The order dated 1-1-2015 passed by the Additional Commissioner granting permission of conversion of revision into an appeal is hereby quashed and set aside and Revision No. 917/RTS64/2010-11/ Ashoknagar is dismissed as not maintainable. Rule is made absolute in these terms. No order as to costs.