
(2016) 07 BOM CK 0017
In the Bombay High Court
Case No : W.P. No. 709 of 2015

Keshavrao Attamaramji Pardhi

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 05-07-2016

Acts Referred:

Maharashtra Land Revenue Code, 1966 — Section 257

Citation : (2016) 5 MhLJ 387

Hon'ble Judges : A.S. Chandurkar, J.

Bench : Single Bench

Advocate : A.P. Thakre, Advocate, for the Appellant; K.L. Dharmadhikari, Assistant Government Pleader, K.S. Motwani, Advocate, for the Respondent

Final Decision : Allowed

Judgement

A.S. Chandurkar, J.(Oral)—Rule. Heard finally with the consent of the learned Counsel for the parties.

2. The order dated 26-9-2014 passed by the respondent No. 1 in proceedings under section 257 of the Maharashtra Land Revenue Code, 1966 (for short, the Code) is under challenge in this writ petition.

3. The relevant facts are that the petitioner No. 4 is a trust registered under the Maharashtra Public Trusts Act, 1950. A mutation entry dated 20-10-1993 bearing No. 1753-D in respect of a property owned by the Trust came to be made in favour of one Sudamabai Sharma. The Trust challenged the said mutation entry in proceedings under section 247 of the Code. The Sub-Divisional Officer by order dated 14-8-1996 allowed the appeal and set aside the mutation entry. This order was continued by the Additional Collector on 15-7-1998. The revision application filed by said Sudamabai was not entertained by the Additional Commissioner as it was time barred. This order is dated 3-6-2004. Thereafter on 29-4-2013 a second revision application was preferred under section 257 of the Code before the State Government. By the impugned order, the revision

application has been allowed and after setting aside the earlier orders, the proceedings have been remanded for fresh adjudication to the Sub-Divisional Officer.

4. Shri A. P. Thakre, the learned Counsel for the petitioners submitted that though the proceedings in question were initiated by the Trust, in the revision proceedings preferred by the grandson of Sudambai, the Trust was not impleaded. The matter proceeded only against some of the trustees. He submitted that the copy of revision application was not supplied to the Trust due to which it could not properly defend the orders in its favour before the State Government. He then submitted that the gift deed on the basis of which the mutation entry was earned out was an unregistered document which could not be acted upon. He, therefore, submitted that in these circumstances the revision application ought not to have been allowed.

5. Shri K. S. Motwani, the learned Counsel for the respondent No. 6 supported the impugned order. According to him, the State Government had rightly remanded the proceedings for fresh consideration as it was noticed that various relevant aspects of the matter had not been considered by the lower authorities. He submitted that the present proceedings were filed after the death of Sudamabai who expired some time in the year 2013 by the grandson of said Sudamabai. He submitted that as the proceedings had been remanded, no prejudice was caused to the petitioners and they could participate in the same again.

Shri. K. L. Dharmadhikari, the learned Assistant Government Pleader appeared for the respondent Nos. 1 to 5 and he supported the impugned order.

6. I have given due consideration to the respective submissions. The documents on record indicate that initially the mutation entry standing in the name of Sudamabai was set aside by the Sub-Divisional Officer which order was maintained by the Additional Collector. The order passed by the Additional Collector is dated 15-7-1998. The revision application preferred under section 257 of the Code was not entertained by the Additional Commissioner as it was time barred. This order was passed on 3-6-2004. It is only on 29-4-2013 that the second revision application came to be filed. According to the respondent No. 6, the original applicant being old aged, she had not taken any steps during her life time. It is on that basis that after a period of more than nine years that the second revision came to be filed.

7. It is necessary to note that the Hon^{ble} Supreme Court in Santoshkumar Shiv Govinda Patil and others v. Balasaheb Tukaram Shevale and another, 2010(2) Mh.L.J. 150 has held that though, there is no specific period of limitation for preferring a revision application under section 257 of the Code, the same is required to be filed within reasonable time. This reasonable time has been observed to be generally three years. The same is subject to exceptional circumstances in a given case. In the present case, however, the Additional

Commissioner had not entertained the revision application as it was filed belatedly and had dismissed the same on 3-6-2004. This revision application had also been tiled after a period of more than three years. The second revision application has been filed after more than nine years. The only ground mentioned for this period of delay is that the original applicant was old aged and after her death, the present proceedings came to be filed. Considering the long period of nine years and absence of any exceptional circumstance being brought on record by the respondent No. 6. I do not find that the State Government was justified in exercising revisional powers as the second revision application was not preferred within reasonable period.

8. It is also to be noted that the first revision application was not entertained on merits. If at all the order dated 3-6-2004 passed by the Additional Commissioner was to be set aside, the proceedings ought to have been remanded to the said Authority for being decided on merits. Be that as it may, once it is found that the remedy of filing the second revision application was not exercised within reasonable time, the same could not have been entertained. The impugned order is, therefore, contrary to the aforesaid law laid down by the Hon^{ble} Supreme Court.

9. In view of aforesaid, the order dated 20-9-2014 passed by the respondent No. 1 is quashed and set aside. The writ petition is allowed in aforesaid terms. No costs.