

(2012) 02 BOM CK 0156

In the Bombay High Court

Case No : Writ Petition No's. 142, 146 of 2012

Shri Dinkar Nilconta Kavlekar and Others

APPELLANT

Vs

The Revisional Authority (Central Government) and Others

RESPONDENT

Date of Decision : 24-02-2012

Acts Referred:

Citation : (2012) 4 ALLMR 167

Hon'ble Judges : F.M. Reis, J

Bench : Single Bench

Advocate : M.S. Sonak, for the Appellant; C.A. Ferreira, Asst. Solicitor General for the Respondent No. 1 and Ms. S. Mordekar, Addl. Government Advocate for the Respondent Nos. 2 and 3, for the Respondent

Judgement

F.M. Reis, J.—Heard Shri M. S. Sonak, learned Counsel appearing for the petitioners, Shri C. A. Ferreira, learned Asst. Solicitor General for the respondent no. 1 and Ms. S. Mordekar, learned Addl. Government Advocate appearing for the respondent nos. 2 and 3. Rule. Heard forthwith by consent of learned Counsels.

2. Learned Counsel appearing for the respective respondents waive service.

3. By consent of the learned Counsels, both the petitions are taken up together for final hearing considering that the nature of the dispute involved in both the petitions is common.

4. The short point in controversy in both the petitions is that the respondent no. 1 whilst passing the impugned orders dated 07.04.2010 and 29.12.2011 has dismissed the revision petitions filed by the petitioners essentially on the ground that the petitions were filed by the power of attorney holder Shri Ashish Shirodkar, who was not the lease holder of the mining lease and as such has no locus standi to file such revision petitions.

5. Shri Sonak, learned Counsel appearing for the petitioners has assailed the impugned orders as according to him though whilst filing the revision petitions,

in Form "N", at Sr. No. 1, the name of the power of attorney holder was disclosed but the names of the principals were not mentioned nevertheless at Sr. No. 13, there was specific averment to the effect that the power of attorneys of the principals was duly attached. The learned Counsel further pointed out that the respondent no. 1 has erroneously come to the conclusion that such power of attorney was filed before the State Government as according to him, the proceedings before the State Government were filed by the principals themselves. The learned Counsel further pointed out that there were numerous grounds raised by the petitioners assailing the order passed by the State Government on 06.04.2010 which have not been considered by the Revisional Authority whilst passing the impugned orders. The learned Counsel further pointed out that nondisclosure of the names of the principals may at the most be a misdescription which the petitioners can always be permitted to correct in the cause title. The learned Counsel as such submitted that the impugned orders be quashed and set aside and the matters be remanded to the respondent no. 1 to decide the revisions preferred by the petitioners afresh in accordance with law.

6. On the other hand, Shri C. A. Ferreira, learned Asst. Solicitor General appearing for the respondent no. 1 does not dispute the fact that such misdescription can always be permitted to be corrected in the cause title by the petitioners. The learned Counsel also does not dispute that there were contentions raised by the petitioners which have not been dealt with by the Revisional Authority whilst passing the impugned orders.

7. Ms. S. Mordekar, learned Addl. Government Advocate appearing for the respondent nos. 2 and 3 supports the contention of the learned Asst. Solicitor General appearing for the respondent no. 1.

8. Having heard the learned Counsels and on perusal of the records, I find that the Revisional Authority/respondent no. 1 has dismissed the revision petitions preferred by the petitioners only on the ground that the said power of attorney holder did not have locus standi to file such revision petitions. On examination of the revision petitions, I find that though there was misdescription in disclosing the name of the power of attorney in Form "N" at Sr. No. 1, nevertheless on reading the contents of Sr. Nos. 1 and 13, it is evident that the revision petitions were filed by the power of attorney holder Shri Ashish Shirodkar on behalf of the petitioners and in fact the power of attorney is stated to have been produced before the Revisions Authority. Apart from that, the ground that the said attorney was a purchaser of the mines was not the ground on which the application was refused by the State Government. Without going into the correctness on merits of the impugned orders, I find it appropriate that the respondent no. 1 be directed to decide the revisions preferred by the petitioners afresh by considering all the contentions of both the parties in accordance with law after hearing all the concerned parties. The petitioners shall also be given liberty to correct the misdescription in their revision petitions at Sr. no. 1 of Form "N" by filing an appropriate application before the respondent no. 1. It is made clear that all the

contentions raised by the parties are left open and the issues involved in the revision petitions have not been considered by this Court whilst passing the above order. In view of the above, I pass the following:

ORDER

- (i) The impugned orders dated 07.04.2010 and 29.12.2011 are quashed and set aside.
- (ii) The matters are remanded to the respondent no. 1 to decide the revision petitions preferred by the petitioners a fresh after hearing the parties in accordance with law.
- (iii) Liberty is given to the petitioners to file an appropriate application before the respondent no. 1 to correct the misdescription in the cause title of the revision petitions.
- (iv) All contentions of the parties on merits are left open.
- (v) Rule is disposed of in above terms.
- (vi) The petitions stand disposed of with no order as to costs.