
(2017) 02 BOM CK 0239
In the Bombay High Court
Case No : 5725 of 2015

Vishwanath S/o Balawant Shingnapurkar APPELLANT
Vs
Yashwant S/o Harishchandra Umale & Anr. RESPONDENT

Date of Decision : 01-02-2017

Acts Referred:

[5933](#) Maharashtra Land Revenue Code, 1966, [5933-257](#) Section 257 - Power of State Government and of certain revenue and survey officers to call for and examine records and proceedings of subordinate officers

Citation : (2017) 02 BOM CK 0239

Hon'ble Judges : Vasanti A Naik

Bench : SINGLE BENCH

Advocate : S.S. Sarda, S.D. Chopde, K.L. Dharmadhikari

Judgement

1. RULE. Rule made returnable forthwith. The petition is heard finally at the stage of admission with the consent of the learned counsel for the parties.
2. The respondent no.1 had filed the proceedings before the Tahsildar for mutating his name in the revenue records and for grant of compensation for the expenses incurred on the land. The Tahsildar dismissed the application filed by the respondent no.1. An appeal was filed by the respondent no.1 before the Subdivisional Officer that was also dismissed. The respondent no.1 filed a further appeal before the Additional Collector. Since there was some delay in filing the appeal, the respondent no.1 filed an application for condonation of delay in filing the appeal. The Additional Collector condoned the delay by the order, dated 28.03.2013. The petitioner challenged the order of the Additional Collector condoning the delay in a revision before the State Government (Additional Commissioner) under section 257 of the Maharashtra Land Revenue Code. The State Government, however, dismissed the revision application on the ground of tenability. The petitioner has challenged the order of the State Government (Additional Commissioner) in the instant petition. The petitioner has also challenged the order, dated 28.03.2013 allowing the application filed by the

respondent no.1 for condonation of delay.

3. Shri Sarda, the learned counsel for the petitioner, states that the revision application filed by the petitioner was maintainable before the State Government under Section 257 of the Maharashtra Land Revenue Code. It is stated that the issue in regard to the maintainability of the revision in similar set of facts came up for consideration before this Court and this Court has, by the judgment reported in 2004(2) All MR 49 (Ramanlal s/o Kachardas Bakliwal & Another Versus Niyaj Mohammad Khan Akhil Khan & Others) held that the revision under Section 257 of the Code was maintainable before the State Government against the order condoning the delay in filing the appeal. It is stated that in view of the aforesaid judgment, the order of the State Government (Additional Commissioner) is liable to be quashed and a direction to the State Government (Additional Commissioner) to decide the revision as early as possible would be necessary.

4. Shri Chopde, the learned counsel for the respondent no.1 and Shri Dharmadhikari, the learned Assistant Government Pleader appearing for the respondent no.2, do not dispute the position of law as laid down by the judgment reported in 2004(2) All MR 49 (Ramanlal s/o Kachardas Bakliwal & Another Versus Niyaj Mohammad Khan Akhil Khan & Others). It is stated on behalf of the respondent no.1 that since the delay was rightly condoned, this Court may not interfere with the order of the State Government (Additional Commissioner).

5. It appears on a reading of the judgment reported in 2004(2) All MR 49 (Ramanlal s/o Kachardas Bakliwal & Another Versus Niyaj Mohammad Khan Akhil Khan & Others) that the issue involved in this case stands answered in favour of the petitioner by the said judgment. It is held by this Court in the aforesaid judgment that against an order of an authority condoning the delay in filing the appeal, a revision under Section 257 of the code would be maintainable. It is clear from the aforesaid judgment that the State Government (Additional Commissioner) was not justified in rejecting the revision application on the ground of tenability.

6. Hence, for the reasons aforesaid and for the reasons recorded in 2004(2) All MR 49 (Ramanlal s/o Kachardas Bakliwal & Another Versus Niyaj Mohammad Khan Akhil Khan & Others), the writ petition is partly allowed. The order of the State Government (Additional Commissioner), dated 20.07.2015 is hereby quashed and set aside. The State Government (Additional Commissioner) is directed to decide the revision filed by the petitioner on merits in accordance with law. It is needless to mention that till the revision is decided by the State Government (Additional Commissioner), the Additional Collector may not proceed with the matter in appeal. The State Government (Additional Commissioner) is directed to decide the revision as early as possible and positively within four months. The parties undertake to appear before the Additional Commissioner on 20.02.2017 so that issuance of notice to the parties could be dispensed with.

7. Rule is made absolute in the aforesaid terms with no order as to costs.