

**BEFORE THE MEMBER (JUDICIAL), MAHARASHTRA REVENUE
TRIBUNAL, PUNE BENCH, PUNE**

Presided over by : V.B.Kulkarni, Member (Judicial)

No.TNC/REV/155/03/P

1) Shri Amarjit Sing Bedi
2) Smt.Gurinder Amarjit Bedi
Both R/o.S.No.54/14/2/1, Kondhava Bk.,
Tal.Haveli, Dist.Pune.

.... Applicants

VS.

State of Maharashtra

.... Respondents

Revision Application U/s 76 of
the B.T.& A.L.Act,1948.

Appearance :- Adv. Shri B.B.Bhargude for Revision Applicants.
Resondent absent though duly served

DATE:- 8TH MARCH, 2017

JUDGMENT

1. Being aggrieved by the judgment & order passed by the Sub-Divisional Officer, Pune Sub Dn., Pune (hereinafter referred as the "SDO") in case No.84-C/Revi./SR/107/2003, dt.31/7/2003, the aggrieved applicant has preferred revision application by invoking the provisions of Sec.76 of the B.T.& A.L.Act, 1948 (hereinafter referred "the Act") before this Tribunal. The facts giving rise to the present revision application can be summarized as under.

2. The applicant has purchased the suit land i.e. portion of 10R from S.No.54/14/2/1 situated at Village Kondhve Bk., under a registered sale-deed dt.28/12/84, through its original owner. After purchasing the suit land, M.E.No.4265 came to be certified in the name of purchaser / applicant in revenue record. However, at the time of certification of mutation entry, endorsement was made by the certifying officer, that as the purchaser was not an agriculturist within the meaning of Tenancy Act. The said transaction is against the provision of Sec.84C. By keeping such remark against the entry the revenue record was continued.

3. The applicant has moved the revenue authorities i.e. Tahsildar Haveli, so as to delete the said endorsement against the said entry, which was causing

unnecessary hurdle against the title of the applicant. After making due enquiry through file No.84-C/SR/882/03, dt.20/7/2002 ALT Haveli has deleted the remark made against the disputed transaction in respect of suit property which was made at the time of certifying M.E.No.4265.

4. Thereupon SDO Pune by invoking the powers of revision u/s 76A of the Act, initiated the suo-moto revisional proceedings and come to the conclusion that as the applicant was not the agriculturist at the time of material transaction. The transaction is not by Sec.84C and thereby, set aside the order passed by ALT.

5. Being aggrieved by the said judgment & order, the applicant / purchaser has moved the present revision application and thereby, challenged the order of SDO on the grounds more particularly set out in the revision application.

6. After instituting the proceeding, notice was issued to the Revenue Department, representing the State. However, despite of effective service none have appeared and contested the revision application.

7. Heard Ld.Adv.Bhargude for the applicant. Perused the judgment & order under revision. After considering the observations made in the judgment & order passed by tribunals below and submissions made by Ld.Adv.Bhargude for the applicant, following points arise for my determination. I have recorded my findings with reasons thereon as under :-

<u>Points</u>	<u>Findings</u>
1. Whether the judgment & order passed by the SDO, which is under revision sustain in eye of Law, if not, what order ?	Negative, As per final order

Reasons

8. Point No.1: Very short question has been involved in the present revision application. Undisputedly the disputed transaction pertaining to the suit property took place on 28/12/84. M.E.No.4265 came to be certified on the basis of said transfer at the instant of the present applicant. The entry was continued in revenue record since 1984 till 2003 without any objection thereto. The proceedings have been initiated by the present applicant in the year 2003 so as to delete the remarks made while certifying the disputed entry. In short, there was no reason at the instant of revisional authority to invoke such power or even they have not suo-moto invoked the said provision at any point of time. On this touchstone, while considering the legality and remarks against such transaction within the limit of Sec.84C, it is well settled principle of Law that transactions effected by the provisions of Sec.84-C can be reconsidered by the revisional authority within their revisional jurisdiction within a *reasonable time* though limitation as such has not prescribed therefore. In support of above observations Ld.Adv.Bhargude rightly called my attention towards the president laid down by our Hon.Supreme Court in a

case of *Mohamad Kavi Vs. Fatmabai Ibrahim*, reported in 1997(6) SCC-71, wherein Their Lordships have ruled as under :

"The provisions of Sec.84-C itself says that the power under the aforesaid section should be exercised within a reasonable time. Where no time limit is prescribed for exercise of a power under a statute it does not mean that it can be exercised at any time; such power has to be exercised within a reasonable time".

9. I have gone through the above precedent very carefully and do find that the preposition of Law laid down therein certainly helps me to hold that the order passed by ALT being based on sound principle of Law, whereby the remark should not be continued or objection about the validity of the transaction cannot be re-opened after a lapse of reasonable period. Therefore I am of the view that the Ld.appellate tribunal has exceeded its revisional powers while passing the order under revision. In short, in view of the law laid down by our Hon.Supreme Court for using the powers u/s 84C of the Act being not exercised within a *reasonable time*, the order of the SDO does not sustain in eye of law. At the same time, the judgment & order passed by ALT being within the fore corners of legal requirement which requires to be restored. With these observations, I answer the Point No.1 in 'negative' and proceed to pass the following order.

ORDER

The revision application is allowed.

The judgment & order passed by the SDO Pune in case No.84-C/Revi./SR/107/2003, dt.31/7/2003, is hereby set aside.

The judgment & order passed by the ALT Haveli in file No.84-C/SR/882/03, dt.20/7/2002 is hereby confirmed.

No order as to costs.

R&P if called from the tribunals below be sent back immediately.

Intimation of this order be sent to both the parties & lower tribunals.