IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.776 OF 2015

Pandurang Gulabchand Khatod .. Petitioner
Versus
Shankar Chandan Sonawane and others .. Respondents

Shri. Sandeep S. Salunkhe, for the Petitioner.
Shri. Ashok T. Gade, for the Respondent Nos.1 to 3.

CORAM : R.M. SAVANT, J.
DATE : 17th APRIL, 2015

P.C.

1. The Writ Jurisdiction of this Court is invoked against the order dated 21.08.2014 passed by the Additional Commissioner, Pune Division, Pune, by which order, the order dated 29.06.1995 passed by the Additional Collector and the order dated 12.07.1993 passed by the Sub Divisional Officer, Solapur came to be set aside.

2. It is not necessary to burden this order with unnecessary details considering the nature of the directions to be issued. Suffice it would be to state that the mutation which was effected in favour of the Petitioner herein on 22.01.1997 vide Mutation Entry No.1180 was substituted by mutation entry No.1315 which was effected on 01.03.1986

in favour of the Respondents. The said mutation entry No.1180 it seems was effected in favour of the Petitioner pursuant to the orders passed by the Apex Court. The said fact has been recorded in the order passed by the Sub Divisional Officer. The Sub Divisional Officer, Solapur allowed the Appeal filed by the Petitioner on the ground that the mutation effected in favour of the Respondent Nos.1 to 3 was done in breach of Section 150(2) of the Maharashtra Land Revenue Code, 1966, as no notice was issued to the Petitioner, though his name was appearing in the record. The mutation effected in favour of the Respondent Nos.1 to 3 was on the basis of the registered Sale Deed dated 11.07.1969 executed in their favour in respect of the land in question. The order passed by the Sub Divisional Officer dated 12.07.1993 was taken exception to by the Respondent Nos.1 to 3 by filing second RTS Appeal No.78 of 1993. The said Appeal came to be dismissed by the Additional Collector by order dated 29.06.1995 and thereby the order passed by the Sub Divisional Officer was confirmed. The said order dated 29.06.1995 passed by the Additional Collector, Solapur was taken exception to by the Respondent Nos.1 to 3 by filing Revision Application before the Additional Commissioner being Revision Application No.541 of 1996. The Revision Application as indicated above came to be allowed by the impugned order dated 21.08.2014. The Revisionary Authority observed that though the Sub Divisional Officer and the Additional Collector had founded their orders on the non-compliance of the Section 150(2), the factum of there being a Sale Deed in favour of the Respondent Nos.1 to 3 has not been considered by the Sub Divisional Officer or the Additional Collector in its proper perspective. The Revisionary Authority further observed that the Sale Deed has not been set aside by any competent Court and would therefore have to be given effect to in the revenue record. The Revisionary Authority accordingly allowed the Revision Application by the impugned order dated 21.08.2014.

3. Heard the Learned Counsel for the parties.

4. Submissions have been advanced by the Learned Counsel for the parties for and against the entry being made in favour of the Respondent Nos.1 to 3. In my view, the issue that arises is whether the Revisionary Authority was right in setting aside the orders passed by the Sub Divisional Officer and the Additional Collector when they in terms have held that the mutation being made in favour of the Respondent Nos.1 to 3 was made in breach of the provisions of Section 150(2) of the Maharashtra Land Revenue Code. In the said context, it is required to be noted that right from the year 1977 when the mutation was effected in favour of the Petitioner till the year 1986 the same position continued. However, relying upon the Sale Deed executed in their favour on 11.07.1969 the Respondent Nos.1 to 3 applied for their names being mutated in the revenue record. The Circle Officer without giving notice to

the Petitioner substituted the name of the Petitioner by those of the Respondents by passing an order. Hence, the order passed by the Circle Officer was vitiated on the ground that the procedure prescribed by Section 150(2) has not been followed. If that be so, the Revisionary Authority ought to have set aside the orders passed by the Sub Divisional Officer as well as the Additional Collector and remanded the matter back to the Circle Officer for a de-novo consideration of the application of the Respondent Nos.1 to 3 for their names being mutated in respect of the land in question. That having not been done so, the exercise of the writ jurisdiction of this Court is warranted. The impugned order dated 21.08.2014 passed by the Additional Commissioner is quashed and set aside as also the orders passed by the Sub Divisional officer and the Additional Collector. The status-quo ante i.e. as prevailing prior to 01.03.1986 is restored i.e. the name of the Petitioner entered vide Mutation Entry No.1180 to stand restored. The application dated 01.03.1986 filed by the Respondent Nos.1 to 3 relying upon the Sale Deed would be considered by the Circle Officer de-novo. The contentions of the parties are kept open for being urged before the Circle Officer. The Circle Officer on receipt of the instant order would decide the said application within 8 weeks of the parties appearing before him. The parties to appear before the Sub Divisional Officer on 05.05.2015. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute. The parties to maintain status-quo in respect of the property in question. However, in so far as the entry made in the revenue record is concerned, the directions given herein above would operate.

[R.M. SAVANT, J]