IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2291 OF 2015

Mrs. Kumud Suresh Kedari and ors. : Petitioners
versus
Rajan Prabhakar Tendulkar and ors. : Respondents.

Mr. M M Vashi, Senior Advocate a/w Ms. Divya Shah i/by Divya Shah & Co. for the Petitioners.
Mr. A G Kundekar for the Respondent Nos.1 and 2.
Ms. Aparna Vhatkar AGP for the Respondent No.6.

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

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 17/1/2015 passed by the Secretary and Officer on Special Duty (Appeals) Government of Maharashtra, by which order the Revision Application filed by the Respondent Nos.1 and 2 herein came to be allowed and resultantly, the order dated 3/2/2006 passed in RTS/Revision No.7/2004, the order dated 13/2/2007 passed in RTS/Appeal No.2/2006 and the order dated 30/12/2009 passed Appeal/Desk/RTS-370/2008 came to be set aside and Mutation Entries Nos. 2324 and 2632 of village Makunsar, Taluka Palghar, District Palghar came to be confirmed.

2 The said Mutation Entries are in respect of lands bearing Survey

Nos.87 and 88 and now numbered as Gat Nos.71 and 79 The said lands were original owned by one Nathuram Choudhari. The Respondent Nos.3 to 5 claim to be the children of the said Nathuram Choudhari from one of his wives whereas the Petitioner No.1 claims to be the other wife and the other Petitioners are the children of the said Nathuram Choudhari from the Petitioner No.1. The Mutation Entry No.2324 was effected in favour of the Respondent Nos.3 to 5 on the basis of the alleged Will of the said Nathuram Pandurang Choudhari dated 7/2/1992. The said Mutation Entry was certified thereafter. In so far as the Petitioners are concerned, as indicated herein above, they have also claimed to be the heirs of the said Nathuram Choudhari being the other wife and her children. The Petitioner sought to get their names entered in the revenue record in the year 1993, however, their application was not accepted. It appears that after the death of said Nathuram Choudhari, the Respondent Nos.3 to 5 executed a registered Deed of Conveyance in favour of the Respondent Nos.1 and 2 pursuant to which Mutation Entry No.2632 was effected in favour of the Respondent Nos.1 and 2.

3 The challenge to the said Mutation Entry No.2324 that is effected in favour of the Respondent Nos.3 to 5 and the Mutation Entry No.2632 that is effected in favour of the Respondent Nos.1 and 2, ultimately after following the gamut of the process before the Revenue Authorities as mentioned in the Maharashtra Land Revenue Code reached the State Government by way of a

Revision. The Revisionary Authority i.e. the Secretary and Officer on Special Duty (Appeals) Government of Maharashtra, has allowed the Revision filed by the Respondent Nos.1 and 2 and set aside the orders passed by the Lower Authorities which have been referred to herein above. However, whilst setting aside the said orders, the Revisionary Authority has made certain observations on the merits of the Wills on the basis of which Wills claims are laid by the Respondent Nos.3 to 5 and the Petitioners.

4 In my view, having regard to the well settled position that the Revenue Authority cannot decide the inter-se rights between the parties and title to the property in question, though the said observations have been made by the Revisionary Authority, the same would be of no avail in the event the parties adopt appropriate civil proceedings to assert their rights, which proceedings would undoubtedly have to be adjudicated on their own merits and in accordance with law. Since it is well settled that the revenue entries are only made for fiscal purposes, and since the parties who claim to have rights in the property are required to assert them by filing appropriate civil proceedings. In my view, it is not necessary to interdict with the order passed by the Revisionary Authority, though the Revisionary Authority has confirmed the Mutation Entries No.2324 and 2632 in respect of the lands in question. Needless to state that the same would be subject to decision of the suit that has already been filed by the Respondent Nos.1 and 2 and subject to the suit that

would be filed by the Petitioners. With the aforesaid observations, the above Writ Petition is disposed of.

[R.M.SAVANT, J]