

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.4177 OF 2013**

**Shri. Pritamsingh A. Birdi**

**.. Petitioner**

**Versus**

**The State of Maharashtra and others**

**.. Respondents**

**Mrs. Jai Kanade a/w Mr. S. S. Kothari, for the Petitioner.**

**Mrs. V. S. Nimbalkar, AGP for the Respondent Nos.1 to 4 & 13.**

**Ms. Manisha Jagtap i/by J. Shekhar & Co., for the Respondent No.5.**

**Mr. S. M. Gorwadkar, Senior Advocate a/w Kuldip T. Pawar and Sujay Gangal, for the Respondent Nos.6 to 9.**

**Mr. N. A. Mogre, for the Respondent Nos.10 & 11.**

**CORAM : R.M. SAVANT, J.**

**DATE : 25<sup>th</sup> AUGUST, 2015**

**PC.**

1. The Writ Jurisdiction of this Court under Article 227 of the Constitution of India is invoked against the order dated 25.02.2013 passed by the Revisionary Authority i.e. Hon'ble Minister for Revenue, Government of Maharashtra, by which order the Revision Application filed by the Petitioner came to be rejected and resultantly, the order dated 25.04.2012 passed by the Appellate Authority i.e. the Deputy Director of Land Records came to be confirmed. The Revisionary Authority has further observed that the order passed by it would be subject to the result of the

civil suit filed by the Petitioners.

2.           The bone of contention between the Petitioner and the Respondent Nos.6 to 9 is the land admeasuring about 23 Ares lying to the south of the lands of the Respondent Nos.6 to 9 and to the west of the lands of the Petitioner, whilst it is the case of the Petitioner that the said 23 Ares is part of their land bearing Survey No.105/1/1b/2b/1. It is the case of the Respondent Nos.6 to 9 that the said land is part of his land in Survey No.105/2/1 as it was also part of the land of his predecessors in title. It appears that originally the land of the Petitioner and the land of the Respondent Nos.6 to 9 was part of the larger area of Survey No.105/1. However, on account of the transactions which took place from time to time whereby the original owners sold pieces of lands to the Petitioner as well as to the predecessors in title of the Respondent Nos.6 to 9, the said survey number got subdivided and now the subdivided numbers are as indicated hereinabove. In so far as the land of the Petitioner and Respondent Nos.6 to 9 are concerned, it appears that the Petitioner got his land demarcated and got a map prepared in the year 1984, whereas the Respondent Nos.6 to 9 did so in the year 1987. The said maps though prepared were not reflected in the revenue record and in fact the effect was not given to the same in the revenue record.

3.           It appears that in the year 2005-2006 the city survey scheme

came to be implemented in respect of the village, wherein the said survey No.105 is situated i.e. in village Wadala which is on the outskirts of Nashik city. The entries made in the City Survey record has triggered of the instant proceedings. The entry made by the Taluka Inspector of Land Records (TILR) in the said City Survey record was taken exception to by the Petitioner by filing an Appeal before the Superintendent of Land Records, Nashik. The said Appeal filed by the Petitioner came to be allowed and the matter came to be remanded back to the TILR by the Superintendent of Land Records. On remand, the TILR once again effected the entries and in the said process took cognizance of the said two maps of the year 1984 and 1987. The order passed by the TILR was taken exception to by the Respondent Nos.6 to 9 by filing an Appeal before the Superintendent of Land Records. The Superintendent of Land Records confirmed the entry made in the revenue record by taking cognizance of the said two maps of the year 1984 and 1987 and thereby dismissed the Appeal filed by the Respondent Nos.6 to 9. The Respondents aggrieved by the said order passed by the Superintendent of Land Records filed a Second Appeal before the Deputy Director of Land Records of Nashik. The Deputy Director of Land Records by his order dated 25.04.2012 set aside the order passed by the Superintendent of Land Records and in the context of the present Petition it is required to be noted that the Deputy

Director of Land Records observed in his order that though the two maps were prepared, they were on the basis of the possession and were not given effect to in the revenue record. The Petitioner aggrieved by the said order dated 25.04.2012 passed by the Deputy Director of Land Records took exception to the same by filing a Revision before the State Government. The Revisionary Authority i.e. the Hon'ble Minister for Revenue, Government of Maharashtra by the impugned order dated 25.02.2013 has dismissed the Revision and upheld the finding recorded by the Deputy Director of Land Records as regards the cancellation of the said two maps of the year 1984 and 1987 on the ground that they were prepared on the basis of the possession and were not given effect in the revenue record. In substance, what the Deputy Director of Land Records and the Revisionary Authority have held is that the said two maps were not referable to any title document and were prepared on the basis of possession. The Revisionary Authority has also held that ultimately the rights of the parties would be decided in the Civil Suit No.282 of 2011 filed by the Petitioner which is pending and therefore, has made the said order subject to the result of the suit.

4. The Learned Counsel for the Petitioner Mrs. Jai Kanade would seek to raise the contention that when the two maps were not subject matter of the proceedings before the Authorities, the Deputy Director of

Land Records as well as the Revisionary Authority have erred in setting aside said two maps of the year 1984 and 1987. The Learned Counsel would also submit that the setting aside of the maps would have prejudicial effect in so far as the Petitioner is concerned. In my view, it is not possible to accept the contentions urged on behalf of the Petitioner. As indicated above, the dispute or the bone of contention is in respect of the land admeasuring 23 Ares approximately, hence the defining aspect would be the title to the said land. Both the Petitioner and the Respondent Nos.6 to 9 are claiming title to the same land adversely against each other. In my view, therefore, the entries made in the revenue record can hardly aid the Petitioner in his pursuit of title to the said land admeasuring 23 Ares approximately. The Authorities below i.e. Deputy Director of Land Records and the Revisionary Authority have therefore rightly come to a conclusion that it is in the said civil proceedings that the rights of the parties would be decided and in furtherance of which the Revisionary Authority has observed that its order would be subject to the result of the civil proceedings. In my view, therefore, no interference is called for with the orders passed by the Revisionary Authority i.e. the Hon'ble Minister for Revenue, Government of Maharashtra in the Writ Jurisdiction of this Court. The Writ Petition is accordingly dismissed.

**[R.M. SAVANT, J]**