

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8073 OF 2014
WITH
CIVIL APPLICATION NO.222 OF 2015

M/s. S.C. Enterprises
through Smt. Vina D. Chavan & ors .. Petitioners

VS.
Bashiroddin Papamiya Bagwan (deceased)
through his Lrs. And representatives and ors. .. Respondents

Mr. P.N. Joshi for Petitioners/Applicants.
Mr. N J. Patil for Respondent Nos.1A,2 & 3.
Mr. C.S. Patil i/b Mr. Amey Deshpande for Respondent Nos.4, 5 &7.

CORAM : M. S. SONAK, J.
DATE : 2 FEBRUARY , 2015

P.C. :-

1] This petition is basically challenges the order dated 10 August 2014 made by the Minister (Revenue) State of Maharashtra, by which the Mutation Entries effected in favour of the petitioners wayback in the year 1998 is sought to be disturbed and replaced by entry in favour of some of the respondents.

2] This petition was filed on 27 August 2014 and notice was issued to the respondents on 9 September 2014. It is the case of the petitioners that the notice was served upon all the parties, including in particular the statutory authorities concerned with effecting Mutation Entry.

3] However, on 18 September 2014, Mutation Entry in favour of some of the respondents, in pursuance of the impugned order has already been effected.

4] Learned counsel for respondent Nos.1A, 2 and 3 points out that Civil Suit No.427 of 2007 has already been instituted by them in relation to the property in question. In the said suit, the petitioners have already been impleaded as the defendants and there is a restraint order against them, in the matter of transfer of the suit property.

5] Rather than go into the issue as to whether the authorities were justified in hurriedly effecting Mutation Entry, it would be appropriate if some workable order is made, particularly in view of pendency of Civil Suit No.427 of 2007. The petitioners have expressed apprehension that taking advantage of the entry now made in the records, the respondents may transfer or alienate the suit property, to the detriment of the interest of the petitioners, who claim to be the owners thereof.

6] In the aforesaid circumstances, there is no need to entertain the present petition. However, it is clarified that the entries in survey

records neither confer any title nor are they determinative in the matters of title. Accordingly, the issue of title shall be gone into in the pending civil suit or any other proceedings which the parties may choose to institute against each of them, uninfluenced by the orders made by the Revenue Authorities in the matter of Mutation Entries.

7] Learned counsel for the petitioners states that within a period of eight weeks from today, the petitioners shall take out appropriate proceedings in the pending Civil Suit No.427 of 2007 or some independent proceedings as they may be advised, in order to seek a restraint against the respondents in the matter of sale, transfer and alienation of the suit property or for that matter disturbance with the petitioners possession thereon. The petitioners are obviously at liberty to do so. However, for a period of eight weeks from today, the respondents shall stand retrained from selling, transferring, alienating or creating any third party rights in the suit property, *inter alia*, on the basis of the Mutation Entry effected on 18 September 2014.

8] It is clarified that this Court has not examined the rival contentions of the parties or the merits and de-merits of their respective case. All questions in this regard are kept open.

9] With the aforesaid observations, the present petition is disposed of.

10] Since the petition is disposed of, the civil application will not survive and is accordingly, disposed of.

(M. S. SONAK, J.)

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