IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11604 OF 2014

Smt. Sudha Anant Gavli and another .. Petitioners
Versus
Smt. Tarabai Shankar Joshi and others .. Respondents

Shri. Premlal Krishnan with Shri. Sankalp Anantwar & Shri. Srinivas A. Chatti i/by M/s. India Law, for the Petitioners.

Shri. P. S. Dani, Senior Advocate with Ms. Tejaswini Bhakare i/by M/s. Vidhi Partners, for the Respondent Nos.1 & 2.

Ms. Snehal R. Modi, for the Respondent Nos.3 to 5.

Ms. Sneha Bhide, 'B' Panel Counsel for Respondent Nos.7 to 9.

CORAM : R.M. SAVANT, J.
DATE : 24th MARCH, 2015

P.C.

1. The Writ Jurisdiction of this Court is invoked aginst the order dated 29.08.2014 passed by the Hon'ble Minister for Revenue, Government of Maharashtra, by which order the Revision Application filed by the Petitioners herein came to be dismissed and the order passed by the Additional Commissioner dated 10.05.2013 came to be confirmed which has also resulted in the confirmation of the order passed by the Additional Collector dated 21.12.2012. By the said orders the mutation entries Nos.569, 570 which were effected in favour of the Petitioners came to be set aside and in respect of mutation entry No.657 directions came to be issued which are found in the order of the Additional Commissioner,

Konkan Division. The entry in the name of the Petitioners in respect of the lands in question were made pursuant to the Sale Deed which was executed in their favour by one Parvatibai Patil which Sale Deed was executed on 11.02.1992. The Petitioners claim to be in possession of the lands in question since after the Sale Deeds. It seems that the heirs of the said Parvatibai Patil moved the Revenue Authorities on the ground that the entry made in favour of the Petitioners in respect of the lands in question were illegal as Parvatibai Patil could not have executed the Sale Deed as she had already expired in the year 1991. The Grampanchayat Adivali-Dhokali which issued the death certificate of the said Parvatibai Patil having expired on 25.09.1991 had cancelled the said death certificate which cancellation was produced by the Petitioners before the authorities below. Be that as it may, the fact remains that the dispute was raised as regards the death of Parvatibai Patil, as a result of which the Sale Deed effected in favour of the Petitioners was put in question. The first Authority i.e. Additional Collector allowed the application filed by the heirs of the said Parvatibai Patil who are the Respondent Nos.1 and 2 who were the Applicants before the Additional Collector. The Additional Collector set aside the Mutation Entries being Nos.569, 570 and 657. The order passed by the Additional Collector was challenged by way of an Appeal before the Additional Commissioner by the Petitioners. The Additional Commissioner did not find any reason to interfere with the order passed by the Additional Collector in the light of the grounds on the basis of which the mutation entries were cancelled by the Additional Collector. The Additional Commissioner observed that the Petitioner had not produced any evidence to show that Parvatibai had expired after the Sale Deed and Power of Attorney was executed. The Additional Commissioner by order dated 10.05.2013 accordingly dismissed the appeal, however issued directions in respect of Mutation Entry No.657. The Petitioners aggrieved by the said order passed by the Additional Commissioner challenged the same by way of Revision before the State Government. The Hon'ble Minister, Revenue, Government of Maharashtra has by the impugned order dated 29.08.2014 dismissed the Revision Application and has thereby confirmed both the orders i.e. order passed by the Additional Collector as well as the order passed by the Additional Commissioner. Hence, in so far as the cancellation of the mutation entries effected in favour of the Petitioners are concerned, there are three concurrent orders passed by the Authorities below holding that the mutation entries in favour of the Petitioners are required to be cancelled.

2. In so far as the efficacy of the mutation entries are concerned, it is well settled by the judgments of the Apex Court as well as this Court that they do not create or extinguish title in favour of the person and are made only for fiscal purposes. If the Petitioners are claiming title to the

property in question on the basis of the Sale Deed executed by said Parvatibai Patil which has become a contentious issue between the parties, it would be open for the Petitioners to file appropriate civil proceedings to assert their claim to title in respect of the lands in question and the fact of the above Petition being dismissed would not come in the way of the Petitioners from prosecuting the said proceedings.

3. Indeed, in another suit filed by some other purchaser from Parvatibai Patil the document in favour of the Petitioners i.e. one of the Sale Deeds was set aside by the Court of the Learned Civil Judge, Senior Division, Kalyan. However, according to the Learned Counsel for the Petitioner Shri. Premlal Krishnan on an application made by the Petitioner, the decree has been set aside and the suit has been restored to file. Be that as it may, for the reasons aforestated, the Petitioners would have to file appropriate civil proceedings for ascertaining their rights. In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed. It is clarified that only such of the mutation entries which are covered by the order passed by the Additional Commissioner, Konkan Division and confirmed by the State Government i.e. the Hon'ble Minister for Revenue would stand cancelled.

[R.M. SAVANT, J]