

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

929 WRIT PETITION NO. 3057 OF 2015

GIRJABAI SAMBHAJI KAHALEKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Panchal Hanmant G.
AGP for Respondents 1 to 3 : B.A. Shinde
Advocate for Respondent 8 : C.R. Bharaswadkar
...

CORAM : T.V. NALAWADE, J.
DATED : 2nd December, 2016.

ORDER :

1. The proceeding is filed to challenge the order made by the City Survey Officer in a proceeding filed for deletion of the name of petitioner Sambhaji from the record of rights of property which is at present given C.T.S. No. 1 and which was having Chalata No. 199 before giving C.T.S. number to it.

2. The learned counsel for petitioners submitted that house No. 166 was given to the C.T.S. No. 1 in the record of Village Panchyat. In the past as the name was deleted, the order was challenged before the appellate authority and then proceeding was filed up to Government, but the petitioner failed and so, the decision of the City Survey Officer is challenged in the present petition.

3. The respondents are having record of title like sale

deed executed in favour of respondents by Purushottamrao Raghuvirrao Deshmukh on 18.1.1968. The property was in two pieces and the pieces were part of Gadhi [गढी] portion. The submissions made and the record of the inquiry show that inquiry was made and it was noticed that the disputed property is part of Gadhi [गढी].

4. The learned counsel for petitioners placed reliance on some record which was created first time in the year 1986. This record was created by Village Panchayat only on the basis of possession. In the same year, city survey was done and on the basis of possession, the entry of the name of Sambhaji was made in the records and rights. This entry was challenged by respondents as Sambhaji was not owner and respondents were owners on the basis of sale deed. This Court asked the learned counsel for petitioners to show any title document or any record of previous orders made prior to 1985 even by Village Panchayat showing the title. But there is no such record. The submissions made show that only on the basis of possession, entry of name of Sambaji was made in the record of rights. In view of these circumstances, the authority has rightly taken the decision to enter the names of respondents on the basis of sale deed. This Court sees no reason to interfere in the order.

5. Another submission was made by the learned counsel for petitioners that no notice was given to Sambhaji, opportunity was not given to have his say in the proceeding filed by him before the Hon'ble Minister. The learned counsel placed reliance on the observations made by this Court in the case reported as **2013 (2) Bom.C.R. 652 [Latur Gorakshan Trust Vs. State of Maharashtra & Ors.]**. In this case, this Court had remanded the matter back to the Hon'ble Minister by holding that there was no sufficient notice. In the present matter, Sambhaji had filed proceeding. Sambhaji died in the year 2012 and notice was sent by the State Government to Sambhaji in the year 2013. Notice was dated 29.11.2013 and date was fixed as 5.12.2013 for hearing. When the proceeding was filed by Sambhaji, it was the duty of legal heirs of Sambhaji to see that they were brought on the record in the proceeding filed by Sambhaji, but that was not done. In view of these circumstances, the observations made by this Court in the case cited supra are of no help to the petitioners. In the result, the petition stands dismissed.

[T.V. NALAWADE, J.]

ssc/