

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

WRIT PETITION NO.5413 OF 2012

Kantilal Dasu Vyawahare & Ors.

...Petitioners

vs.

Anil Sadashiv Jagtap & Ors.

...Respondents

...

Mr. Surel S. Shah for the petitioners.

Mr. Ajay A. Joshi for respondent Nos.1 to 5.

Mr. Hemant Ghadigaonkar h/f Mr. V. S. Talkute for respondent No.8.

Ms. Anita Marathe, AGP for the State.

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CORAM : R. M. BORDE, J.

DATE : 20th SEPTEMBER, 2016.

P.C. :

. This petition was heard and disposed of by the learned Single Judge by order dated 11/1/2013. It was thereafter brought to the notice of the Court that one of the respondent, who is a necessary party has not been joined in the petition. As such the judgment of the learned Single Judge was set aside on consideration of application seeking review and at the request of the petitioner, respondent No.8 is impleaded as a party to the petition. Respondent No.8 is served with the copy of the petition.

2. I have perused the judgment delivered by the learned Single Judge dated 11/1/2013. The learned Single Judge has considered the contention of the parties as well as decisions of this Court in the case of *Dattu Appa v. State of Maharashtra, 2007 (1) Mh. L. J. 393 and Gulabrao B. Kakade v. Nivrutti K. Bhilare, 2001(supp.) Bom. C.R.688*. The learned Single Judge has noted in the order that in the factual backdrop, Division Bench of this Court in above noted reported

judgments has held that the Settlement Commission was not justified in making alterations after lapse of a reasonable period. However, in the instant matter in view of adjudication by the competent civil court, learned Single Judge proceeded to conclude that the instant matter is distinguishable from reported cases, referred to above and the findings recorded and conclusion drawn by learned single Judge in judgment dated 11/1/2013 are reasonable and proper and as such instant petition deserves to be disposed of in terms of order passed by learned Single Judge on 11/1/2013.

3. The petition is allowed and the same is disposed of in terms of the judgment delivered by the learned Single Judge dated 11/1/2013, which shall form part of the instant order.

(R. M. BORDE, J.)