

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2866 OF 2015

Janata Hill S.R.A. Cooperative Housing
Society Limited and Another. .. Petitioners
VS
State of Maharashtra and Others. .. Respondents

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Shri Atul Damle, Senior Advocate along with Srhi Saket Mone, Shri Vishesh Kalra and Shri Subit Chakrabarti i/b Vithi Partners for the Petitioners.

Ms. Geeta Shastri, Additional Government Pleader for the Respondent Nos.1 and 4.

Shri Rddy (Aradwad) Jagdish G. for the Respondent No.3.

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CORAM : A.S. OKA & C.V. BHADANG, JJ
DATED : 13TH JANUARY 2016

PC.

1. Heard learned senior counsel appearing for the Petitioners, learned counsel appearing for the third Respondent and the learned Additional Government Pleader for the first and fourth Respondents.

2. Prayers (a) and (b) in the Petition under Article 226 of the Constitution of India read thus:

“(a) this Hon'ble Court be pleased to issue a Writ of mandamus or a Writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India, directing the Respondent Nos.2 and 3 to issue revised copy of the Annexure-II for Petitioner No.1 Society.

- (b) this Hon'ble Court be pleased to issue a Writ of mandamus or a Writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India, directing the Respondent No.4 to forthwith comply with the Order dated 29.10.2014 passed by this Hon'ble Court and update the name of the Respondent No.2 on the Property Card in respect of C.S. No.725 (part) and C.S. No.1/725 in the ownership column pursuant to the conveyance deed dated 18.06.1957.”

3. Today, an affidavit is filed by Shri Jayant Vasantrao Nikam, Superintendent, Mumbai City Survey and Land Records enclosing therewith an order dated 11th January 2016 passed by him under Section 300 of the Maharashtra Land Revenue Code, 1966 (for short “the said Code”). The lands bearing City Survey No.725 and Survey No.1/725 are subject matter of this Petition. By the said order, the Superintendent, Mumbai City Survey and Land Records has directed that the entry of name of the Mumbai Municipal Corporation shall be made in the revenue records in respect of the C.S. No.1/725. However, the prayer made in respect of the land bearing C.S. No.725 for making an entry of the Municipal Corporation has been rejected on the ground that the said land is vesting in the State Government and the Municipal Corporation has not explained as to how the said land was purchased from the private persons.

4. Learned senior counsel appearing for the Petitioners submitted that the said order is not in conformity with the order dated 29th October 2014 in Writ Petition No.2054 of 2014. We do not agree with the said submission. The said order of this Court does not record a finding that it is incumbent upon State to enter the name of the Municipal Corporation in the revenue record in respect of both the survey numbers. The entitlement of the Municipal Corporation in respect of both the lands was to be decided in accordance with law. Moreover, the order passed by the Superintendent, Mumbai City Survey and Land Records can be always challenged in accordance with law.

5. Hence, the Petition need not be kept pending and the same is disposed of by passing the following order:

ORDER :

- (a) It will be open for the Petitioners to produce a certified copy of the corrected land records in respect of the land bearing City Survey No.1/725 before the appropriate officer of the Mumbai Municipal Corporation;

- (b) On production of the certified copy of the corrected land record in respect of the land bearing City Survey No.1/725, the Mumbai Municipal Corporation shall take necessary steps for preparation of the corrected/revised Annexure II;
- (c) Necessary compliance shall be made within a period of three months from the date on which the corrected land record in respect of the land bearing City Survey No.1/725 is submitted;
- (d) As regards the City Survey No.725, it will be open for the Petitioners to make an appropriate application to the appropriate authority of the State Government for issuing Annexure II;
- (e) The Petition is disposed of on above terms.

(C.V. BHADANG, J)

(A.S. OKA, J)