

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5410/2015

(MAHADEV PUNDLIK TAYADE & OTHERS **VERSUS** ADDITIONAL COMMISSIONER, AMRAVATI & ORS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri A.D. Giradkar, counsel for the petitioners.
 Shri A.K. Bangadkar, A.G.P. for the R-1 to 3.
 Shri M.M. Agnihotri and Ms A.A. Athalye, counsel for the R-4.

CORAM : SMT.VASANTI A. NAIK, J.

DATE : APRIL 2, 2016.

By this petition, the petitioners challenge the order of the Additional Commissioner, Amravati Division, Amravati, dated 27.07.2015 allowing an appeal filed by the respondent no.4 and setting aside the order of the Additional Collector and remanding the matter to the Sub-Divisional Officer for a decision on the same, on merits.

The respondent no.4 had filed an application before the Sub-Divisional Officer that she is the owner of the land admeasuring 6.31 Hectares in Gat No.76 and after perusing a copy of the village form no.7/12, she found that the petitioners had illegally recorded their names in the revenue records. The Sub-Divisional Officer registered the case of the respondent no.4. The petitioners challenged the order of the Sub-Divisional Officer entertaining the case of the respondent no.4, belatedly. It was the case of the petitioners that the names of the petitioners were recorded in the 7/12 extract on 01.01.1996 and the respondent no.4 could not have applied to the Sub-Divisional Officer belatedly, in the year 2013. The Additional Collector allowed the appeal filed by the petitioners. The said order was challenged before the Additional Commissioner. The Additional Commissioner allowed the appeal filed by the respondent no.4 and set aside the order of the Additional Collector and remanded the matter to the Sub-Divisional Officer to decide the matter on merits.

On hearing the learned counsel for the parties, it appears that there is no scope for interference with the impugned order, in exercise of the writ jurisdiction. The respondent no.4 had claimed to be the owner of the land in question and the name of the respondent no.4 was recorded in the 7/12 extracts. The petitioners appear to have recorded their names in the 7/12 extract in the ownership column, in the year 1996. The respondent no.4 being an old lady, was not aware about the alleged mischief played by the petitioners, till she secured a copy of the 7/12 extract, in the year 2013. In the circumstances of the case, the Additional Commissioner rightly allowed the appeal filed by the respondent no.4 and held that it was necessary for the Sub-Divisional Officer to conduct an enquiry in the matter of mutation of the names of the petitioners in the revenue records and for the change of entry. The Additional Commissioner held that for several years, the name of the respondent no.4 was recorded in the 7/12 extracts and *prima-facie* there were no documents to prove the title of the petitioners. In this background, the Additional Commissioner held that the Additional Collector was not justified in setting aside the order of the Sub-Divisional Officer of entertaining the matter in respect of the change of the entry. The order of the Additional Commissioner appears to be just and proper and calls for no interference.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

APTE