

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11979 OF 2014

Anandrao Dnyandev Mandhare and Another ..PETITIONERS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

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Mrs. Charuta Deshmukh, Advocate for petitioners.

Mr. N.T. Bhagat, A.G.P. for Respondent Nos. 1 to 4.

Mr. V.P. Latange, Advocate for Respondent Nos. 13 to 19.

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 31st JULY, 2017

ORDER :

1. The learned A.G.P. has filed an affidavit in reply. It is taken on record.

2. While issuing notice, this Court has observed in its order dated 14th September, 2015 as under:

“1. Contention of the petitioner is that the Appeal No. 15/J-6 of 2014 was preferred by the respondents Nos. 19, 21 to 24 before the Honourable Minister under Section 249 of the Maharashtra Land Revenue Code.

2. By the impugned judgment dated 13.2.2015, the Appeal has been allowed and the mutation entries and the

decision of the Additional Commissioner, Nasik dated 28.5.2013 has been interfered with.

3. *It is further pointed out by the learned Advocate that the limitation prescribed under Section 250 of the said Code is 60 days in the case of an order passed by an officer inferior to the rank of Collector and 90 days in any other case. It is, therefore, submitted that the judgment of the Additional Commissioner, could have been assailed by the said respondents within 90 days. Delay caused is of 57 days as the appeal was instituted on 23.10.2013 for challenging the revisional judgment, dated 28.5.2013. No application for condonation of delay was filed, inasmuch as, such application could have been entertained under Section 251 of the Code, had it been filed.*

4. *The learned Advocate has further submitted that since there was no disturbance from the respondents, this petition preferred on 3.5.2014 was not moved. Presently, the respondents are creating a disturbance and there is a likelihood of alienating the properties.*

5. *Issue notice to the respondents returnable on 16.10.2015.*

6. *The learned AGP waives service for respondents 1 to 4.*

7. *Parties to note that in the event the concerned respondents create third party interests in the properties at issue, the same will be subject to the result of this petition.”*

3. The petitioner has put forth prayer clause (B) as under:-

“(B) *Impugned order dated 13.02.2014 passed by Learned*

Minister, Revenue and Forest Department, Mantralaya, Mumbai in Appeal No. 2014/PK-15/J-6 may kindly be quashed and set aside and order dated 28.05.2013 passed by learned Divisional Commissioner, Nashik in Revision No. 510/2012 may kindly be confirmed.”

4. The impugned order passed by the Hon’ble Minister would indicate that the impugned mutation entries have been made subject to the decision in the pending civil litigation involving the rights and the title claimed by the litigating sides. The Hon’ble Minister has observed that the parties would be bound by the decision delivered by the Trial Court.

5. This Court, in the matter of ***Shrikant R. Sankanwar Vs. Krishna Balu Naukudkar 2003 (3) BCR 45*** has held that the mutation entries have significance only to the extent of the taxation purpose. The mutation entries are carried out based on the best piece of evidence available. However, the mutation entry would not decide the rights of the parties and the claims put forth as regards the title to the property, since this can be adjudicated upon only by the Trial Court and the verdict of the Trial Court shall bind the revenue authorities.

6. The learned Counsel informs that the suit is pending final disposal. Considering the said position, I do not find any reason to keep this petition

pending in the light of the equitable order passed at paragraph 7 of the order dated 14th September, 2015.

7. In the light of the above, this petition is disposed of. The equitable order granting protection to the parties in Clause 7 of the order dated 14th September, 2015, shall continue till the decision in Regular Civil Suit No. 290 of 2013 before the learned Civil Judge Senior Division, Shrigonda.

(RAVINDRA V GHUGE, J.)

SSD