

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

WRIT PETITION NO. 8809 OF 2016

PADMINBAI ANANDRAO BARSE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Shri Shinde Dhananjay M..
AGP for Respondents 1 to 4 : Shri S.M.Ganachari.
Advocate for Respondent 5 : Shri Mahesh V Ghatge.

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CORAM: RAVINDRA V. GHUGE, J.
DATE :- 06th December, 2017

Per Court:

1 I have heard the learned Advocates for the Petitioner and the Respondent No.5 for sometime.

2 The issue is with regard to the legality and validity of the order passed by the Honourable Minister, impugned in this petition, dated 13.07.2016 by which, the mutation entry has been said to have been altered, though the mutation entry was standing in favour of the Petitioner for a long time.

3 On 05.10.2016, this Court, while issuing notice, has granted interim relief to the Petitioner in paragraph 3 which reads as under:-

"3. Stay is granted to the order made by the Hon'ble Minister if the mutation is not restored on the basis of the order of Hon'ble Minister. Even if the mutation is restored, status quo is to be maintained by both the sides with regard to propriety rights and both of them are not allowed to alienate the property or create interest of any kind on the

basis of entry made in revenue record. Keep the matter for final disposal on 16.11.2016 in urgent category. High on board."

4 There is no dispute that RCS No.73/2001 was instituted by the Petitioner seeking a declaration of ownership and title over the suit property which is subject matter of the mutation entry at issue. By the judgment dated 19.07.2017, the said suit has been decreed.

5 The learned Advocate for Respondent No.5/ original Defendant in the civil suit submits that Regular Civil Appeal No.74/2017 has been filed after the suit preferred by the Petitioner herein has been decreed.

6 This Court, in the matter of Shrikant R. Sankanwar and others vs. Krishna Balu Naukudkar, 2003 (3) BCR 45, has laid down the law that when it comes to mutation entries, which are purely meant for fiscal purposes and are carried out by the Revenue authorities, they are subject to the result in the civil proceedings pending before the competent Civil Court. Such revenue entries would be governed by the verdict of the Civil Court and not vice versa.

7 The Petitioner herein is the original Plaintiff in RCS No.73/2001. She has succeeded in the said suit and it is concluded that the Petitioner is the owner of the suit property. Regular Civil Appeal No.74/2017 is pending in the first Appellate Court against the decree in

RCS No.73/2001.

8 In the light of the above and keeping in view the law laid down by this Court in Shrikant Sankanwar (supra) that the revenue entries would be governed by the verdict of the Civil Court, this Writ Petition is disposed of in the following terms:-

- (a) The first Appellate Court shall decide Regular Civil Appeal No.74/2017 as expeditiously as possible and preferably on or before 30.06.2018. All the litigating sides shall cooperate with the Appellate Court for early disposal of the appeal.
- (b) Interim relief granted by this Court on 05.10.2016 shall continue till the decision in Regular Civil Appeal No.74/2017.
- (c) The revenue entries with regard to the land owned by the Petitioner as per the judgment of the Civil Court dated 19.07.2017, shall be subject to the result of Regular Civil Appeal No.74/2017.
- (d) Once the Appellate Court decides the regular civil appeal, the impugned judgment of the Honourable Minister dated 13.07.2016 shall lose its efficacy and the mutation entry shall then be carried out strictly as per the verdict of the Appellate Court.