

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.147 OF 2013

Abdul Gaffer Janimiya Khatik,
Age 55 years, Occup. Agriculture,
R/o MHADA Colony, Roshan Gate,
Aurangabad.

...Petitioner

Versus

- 1) Jamil Ahemad Jammulal,
Age 55 years, Occup.Service,
R/o Shaikh Sultan Buban,
590/16, Kachwala Building,
Pipe Road, Kurla West, Bombay.
- 2) Mhirunissa Mohammad Fakir,
Age 62 years, Occup. Household,
R/o Near Asha Talkies, Kasab Mohalla,
Ahmednagar.
- 3) Mohammad Afsar Jammulal,
Age 67 years, Occup. Household,
R/o Shaikh Sultan Buban,
590/16 Kachwala Building,
Pipe Road, Kurla West, Bombay.
- 4) Mohammad Afsar Jammulal,
Age 67 years, Occup. Nil,
R/o 941/942, Bhavani Peth,
Pune -2.

Respondents No.1 to 4 through
Their G.P.A. Rauf Wahab Khan Patel,
Age 34 years, Occup.Agriculture,
R/o Renuka Mata Mandir, Beed Bye-pass

Road, Satara Parisar, Aurangabad.

5) Suleman Bandu Tade,
Age major, Occup. Agriculture,
R/o Shendurwada Tq. Gangapur
Dist. Aurangabad.

6) Arif Janimiya Khatik,
Age 42 years, Occup. Agriculture,
R/o Shendurwada Tq. Gangapur
Dist. Aurangabad.

...Respondents

Mr. P. V. Barde, Advocate for petitioner
Mr. N. D. Sonwane, Advocate for respondents No.1 to 4.
Mr. P. N. Sonpethkar, Advocate for respondent No.5
Mr. P. N. Kalani, Advocate for respondent No.6

**WITH
WRIT PETITION NO.207 OF 2013**

Abdul Guffer Janimiya Khatik,
Age Major, Occup. Agriculture,
R/o Shendurwada Tq. Gangapur
Dist. Aurangabad.

...Petitioner

Versus

- 1) Jamil Ahemad Jammulal,
Age Major, Occup. Business,
R/o. C/o. Shaikh Sultan Buban,
590/16, Kanchwala Building,
Pipe Road, Kurla (West)
Mumbai – 70.
- 2) Mahrnunissa Mohd. Fakir,
Age Major, Occup. Household,
R/o Near Asha Talkies, Kasab Mohalla
Ahmednagar, Dist. Ahmednagar.

- 3) Noorjahan Sultan,
Age Major, Occup. Household,
R/o. C/o. Shaikh Sultan Buban,
590/16 Kanchwala Building,
Pipe Road, Kurla (West)
Mumbai – 70.
- 4) Mohd. Afsar Jammulal,
Age Major, Occup. Nilo,
R/o. 941/942, Bhavani Peth,
Pune, Dist. Pune.
- 5) Suleman Bandu Tade,
Age major, Occup. Agriculture,
R/o Shendurwada Tq. Gangapur
Dist. Aurangabad.
- 6) The Sub- Divisional Officer,
Vaijapur Dist. Aurangabad.
- 7) The Tahsildar,
Gangapur Tq. Gangapur
Dist. Aurangabad.
- 8) The State of Maharashtra,
through the District Collector Aurangabad
Dist. Aurangabad. ...Respondents

Mr. P. N. Kalani, Advocate for petitioner

Mr. N. D. Sonawane, Advocate for respondents No.1 to 4

**WITH
WRIT PETITION NO.4985 OF 2013**

- 1) Aminabee Nazir Tade,
Age 56 years, Occup. Agriculture,
r/o H.No.917, Bhavani Peth,
Pune Dist. Pune.

- 2) Nasheer Nazir Tade,
Age 41 years, Occup. Agriculture,
R/o. H. No.917, Bhavani Peth,
Pune Dist. Pune.
- 3) Aizaz Nazir Tade,
Age 26 years, Occup. Agriculture,
R/o. H. No.917, Bhavani Peth,
Pune Dist. Pune.
- 4) Riyaz Nazir Tade,
Age 25 years, Occup. Student,
R/o H.No.917, Bhavani Peth,
Pune Dist. Pune.
- 5) Reshma Nazir Tade,
Age 24 years, Occup. Household,
R/o H.No.917, Bhavani Peth,
Pune Dist. Pune.
- 6) Ashuma Yusuf Qureshi,
Age 31 years, Occup. Agriculture,
R/o Kamgar Maidan, Mundhwa,
Pune Dist. Pune.
- 7) Arif Janemiya Khatik,
Age 42 years, Occup. Agriculture,
R/o Shendurwada Tq. Gangapur
Dist. Aurangabad
(G.P.A. Holder of Petitioners No.1 to 6.

...Petitioners

Versus

- 1) Muktar Patel Karim Patel,
Age 36 years, Occup. Business,
R/o Dhoregaon Tq. Gangapur
Dist. Aurangabad.

- 2) Jafar Petel Gulab Patel,
Age 23 years, Occup. Business,
R/o Renuka Mata Mandir,
Beed Bye pass Road, Satara Parisar,
Aurangabad.
- 3) Mustaq Mohammad Patel,
Age 23 years, Occup. Business,
R/o Dhoregaon Tq. Gangapur
Dist. Aurangabad.
- 4) Jameel Ahmed Jammulal,
Age Major, Occup. Business,
R/o. C/o. Shaikh Sultan Buban,
590/16, Kanchwala Building,
Pipe Road, Kurla (West)
Mumbai – 70.
- 5) Mahrnunissa Mohd. Fakir,
Age Major, Occup. Housheold,
Near Asha Talkies, Kasab Mohalla
Ahmednagar, Dist. Ahmednagar.
- 6) Noorjahan Sultan,
Age Major, Occup. Household,
R/o. C/o. Shaikh Sultan Buban,
590/16 Kanchwala Building,
Pipe Road, Kurla (West)
Mumbai – 70.
- 7) Mohd. Afsar Jammulal,
Age Major, Occup. Nil,
R/o. Room No. 17, 1st Floor, 590,
Sakina Manzil, Pipe Road,
Kurla, Mumbai.
Through G.P.A. Rauf Wahab Khan Patel,
Age 35 years, Occup. Business,
R/o Renuka Mata Mandir, Beed
Bypass Road, Satara Parisar,

Aurangabad.

- 8) Suleman Bandu Tade,
Age Major, Occup. Agriculture,
R/o Shendurwada Tq. Gangapur
Dist. Aurangabad.
- 9) The Sub-Divisional Officer,
Vaijapur Dist. Aurangabad.
- 10) The Tahsildar,
Gangapur Tq. Gangapur Dist. Aurangabad.
- 11) The State of Maharashtra
Through the District Collector,
Aurangabad Dist. Aurangabad. ...Respondents

Mr. P. N. Kalani, Advocate for petitioners
Mr. N. D. Sonawane, Advocate for respondents No.1 to 4.

CORAM : R. M. BORDE, J.
DATE : 17-11-2017

PER COURT :

1. In all these petitions petitioners are objecting to the decision rendered by the Additional Commissioner Aurangabad, Division Aurangabad in revision applications tendered by the parties to the litigation under Section 257 of the Maharashtra Land Revenue Code, 1966. The revision applications are disposed of under the common order passed by the Additional Commissioner. Three

Revision Applications bearing No.207 of 2012, 208 of 2012 and 209 of 2012 have been allowed. The order passed by the Collector dated 02-06-2012 in those revision applications has been set aside and the order passed by the Tahsildar has been confirmed and upheld. Revision petitions No.375 of 2012, 304 of 2012 and the Appeal No.494 of 2011 have been dismissed and the order passed by the Additional Collector and the Collector, Aurangabad are confirmed and upheld to the extent of those three cases. The mutation entries bearing Nos. 1607, 1608 and 1609 sanctioned by Tahsildar in view of the registered sale deed have been confirmed. The Additional Collector has further granted liberty to the parties to approach before competent Civil Court for cancellation of the registered sale deed and for protection of their interest.

2. It is not the matter of dispute that, various civil proceedings are pending between the parties in the shape of Second Appeal No.101 of 2011 in the High Court. It is pointed out that Darkhast bearing No.48 of 2012 arising out of partition suit is pending before the Court and there are various objection petitions presented in the aforesaid darkhast.

3. It is also further pointed out that, Regular Civil Appeal

No.116 of 2006 presented by petitioner in Writ Petition No.4985 of 2013 is pending before the District Court claiming relief of setting aside a decree of partition, declaration of ownership and possession. It is thus clear that, there are various proceedings pending before the Civil Court in respect of entitlement of the parties in relation to the suit property.

4. It is settled principle that, the revenue entries are recorded for fiscal purposes and those entries are not evidence of title or entitlement of parties in relation to property. The revenue entries recorded by the revenue officials which are recorded primarily for fiscal purpose can be corrected in accordance with the determination of rights by the Civil Courts. Considering this principle since it is pointed out that, there are various questions of facts relating to entitlement of parties in relation to the suit property involved in the present matter, I do not propose to go into the merits of the petition. It is also not open for the revenue authorities to rule on entitlement or the title of the parties while dealing with the aspect of recording of revenue entries. Since various civil proceedings are pending between the parties before the competent Courts, I do not propose to go into the disputed questions raised in the instant matter and for the reason

that the disputes relating to entitlement of the parties and the correctness of the decree passed earlier as well as the entitlement of the parties to get the decree executed are pending consideration at the various stages before the Civil Court. The decision in respect of recording of revenue entires shall have to be revised and modified in conformity with the decision of the Civil Court.

5. The Additional Commissioner while disposing of the revision applications has also clarified this aspect and has recorded that, the revenue entires shall have to be corrected in accordance with determination of rights of the parties by the competent Civil Court. In view of this aspect I do not propose to consider the merits of the contentions and leave the parties to avail of the remedies available in law and to pursue the remedy which is already availed by them. For the reasons recorded above, writ petitions are disposed of.

[R. M. BORDE]
JUDGE

vjg/-.