

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION [STAMP] NO.6705 OF 2017

|                           |               |
|---------------------------|---------------|
| Mrs. Suman Bhaskar Gaykar | ..Petitioner  |
| <i>Versus</i>             |               |
| L.A. Belur and others.    | ..Respondents |

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Mr.Pankaj Dwivedi, Advocate for the Petitioner.  
Mr. Sachin Kankal, AGP, for Respondents No.2 to 5.  
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CORAM : R. G. KETKAR, J.

DATE : 27<sup>th</sup> MARCH, 2017

P.C.

1. Heard Mr.Pankaj Dwivedi, learned Counsel for the petitioner and Mr.Sachin Kankal, learned A.G.P. for respondents No.2 to 5-State, at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 26.10.2016 passed by the Hon'ble Minister of State for Revenue in Revision Application preferred by the first respondent under Section 257 of the Maharashtra Land Revenue Code, 1966 (for short, 'Code').
3. In support of this Petition, Mr. Dwivedi has invited my

attention to (1) order dated 14.2.2005 passed by the City Survey Officer, Borivali, (2) order dated 30.4.2005 passed by the Superintendent of Land Records, Mumbai Sub-urban District, (3) order dated 24.10.2008 passed by the Deputy Director of Land Records in Appeal preferred by the first respondent challenging the order dated 31.3.2006 passed by the Superintendent of Land Records, Mumbai Sub-urban District, (4) order passed by this Court dated 24.11.2009 in Writ Petition NO.3418/2009 instituted by the first respondent and in particular paragraph-3 thereof, and (5) order dated 6.2.2012 passed by Apex Court.

4. Mr. Dwivedi submitted that all the authorities declined to record name of the first respondent in the relevant revenue record. After the Apex Court disposed of the S.L.P., respondent No.1 again moved the Revenue Authorities. By order dated 18.3.2014, District Superintendent of Land Records dismissed the appeal preferred by the first respondent. Aggrieved by that decision, he preferred Appeal under Section 247 of the Code before the Deputy Director of Land Records which was dismissed on 25.2.2015. Aggrieved by these decisions, respondent No.1 preferred Revision Application before the State

Government and the same is allowed by the impugned order. He submitted that all along the Revenue Authorities declined to record the name of the first respondent in the relevant revenue record. For the first time, by the impugned order, the Hon'ble Minister of State for Revenue has directed entering name of the first respondent in the revenue record. He, therefore, submitted that the Petition requires consideration.

5. I have considered the submissions of Mr.Dwivedi. I have also perused the material on record. Respondent No.1 had made application on 4.9.2004 before the City Survey Officer for recording his name in the revenue record on the basis of registered instrument dated 12.8.2002. That was rejected by the City Survey Officer, Borivali on 14.2.2005. Aggrieved by that decision, respondent No.1 preferred appeal before the Superintendent of Land Records. While partly allowing the appeal on 30.4.2005, the Authority directed the petitioners herein to approach Civil Court for adjudication of their rights. It is not in dispute that the petitioners herein did not challenge said order. It is in that context one has to consider the order dated 24.11.2009 passed by this Court. In paragraph-3, this Court observed that all three authorities, after having

appreciated the material on record, have held that the dispute regarding ownership can be adjudicated only by the competent Civil Court. In my opinion, the petitioners ought to have approached the Civil Court challenging the deed of conveyance dated 12.8.2002 executed in favour of the first respondent by C.S. Seetalaxmi and Smt. Yeshodha Sitaram. By the impugned order, the Hon'ble Minister has referred to the registered instrument dated 12.8.2012 executed in favour of the first respondent. He also considered Sections 149 to 154 of the Code.

6. In view thereof, I do not find that the Hon'ble Minister has committed any error in allowing the Revision Application. Hence, the Petition fails and the same is dismissed reserving liberty to the petitioner to approach the Civil Court for establishing their rights, if permissible in law. All contentions of the first respondent in that regard are kept open. Order accordingly.

(R. G. KETKAR, J.)