IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8094 OF 2014

Kiran P. Bua More and ors. .. Petitioners
vs.
Smt. Jayashri M. Abhyankar and ors. .. Respondents

Mr.A.V. Anturkar, Sr. Advocate a/w. Mr. Rahul Motkari for the Petitioner.
Mr.G.S. Godbole i/b Vikas Takalkar for Respondent Nos.1,2-A,2B &3.

CORAM : M. S. SONAK, J.
DATE : 26 SEPTEMBER 2017.

P.C. :-

1] Heard Mr. Anturkar, learned senior advocate of the petitioners. Mr. Godbole, learned counsel for respondent Nos.1 to 3.

2] The challenge in this petition is to the order dated 13th August 2014 made by the Minister (Revenue) in RTS Appeal No. 2014/P.K.130/G-6 in relation to mutation in revenue entry.

3] Mr. Anturkar, learned senior advocate for the petitioners, makes the following two submissions in support of this petition:

(a) That the Minister (Revenue) in deciding the disputes with regard to revenue entries lacked the jurisdiction to make any observation as regards the title of the petitioners, including in particular, validity or otherwise to the Sale Deed on the basis of which, the petitioners claim title to the property in-question; and

(b) That respondent Nos.1 to 3 had, in fact, never challenged the revenue entry in favour of the petitioners in the first instance. The revenue entry was challenged by one Chandrakant Koshire by instituting RTS Appeal No. 113 of 2003. To this appeal, respondent Nos.1 to 3 were only impleaded as the respondents. This appeal was dismissed. Thereafter, it was not open to respondent Nos.1 to 3 to pursue the matter and to secure any changes in the revenue entries.

4] Having considered the aforesaid submissions, though it is correct, that authorities under the Land Revenue Code ought not to delve into the issue of title, in the peculiar facts of this case, there is no case made out to interfere in the matter.

5] In this case, admittedly, there is Civil Suit No. 472 of 2006 pending between the parties before the Civil Judge, Senior Division, Nashik. In this civil suit, the issues of title are being agitated. The observations made by the Minister (Revenue) in the impugned order as regards the title, not doubt, are in excess of jurisdiction. However, the observations have to be only regarded as *prima facie* and in the context of ordering mutation. Under no circumstances, can such observations be taken as binding or even be taken into consideration by the Civil Court, at the stage of deciding the civil suit on merits. With this clarification, there is no necessity to entertain present petition.

6] Again, as regards the second contention of Mr. Anturkar, the same is by no means sufficient for this Court to entertain the petition and to go into all such issues. As noted earlier, the issues of title and entitlement are being adjudicated in the pending civil suit.

The interests of justice will therefore, be met by clarifying that none of the orders made by the Revenue Authorities whether in favour of the petitioners or against the petitioners need be considered by the Civil Court whilst disposing of the said civil suit, on its own merits and in accordance with law. The circumstance that this petition is being not entertained is also not a circumstance which the Civil Court will take into consideration while deciding the civil suit, again on its own merits and in accordance with law.

7] With aforesaid observations and clarification, this petition is disposed of. There shall however, be no order as to costs.

(M. S. SONAK, J.)