IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12744 OF 2015

Mr. Tanaji Narayan Sawant & Anr. ... Petitioners
V/s.
Mr. Gurunath Sadashiv Sawant & Ors. ... Respondents

Mr. Sanskar Marathe for the Petitioners.
Mrs. Ashwini Gadgil i/b Mr. Ajay Basutkar for the Respondent Nos.1, 2A, 2B, 3 to 8, 11, 14A, 14B, 15.

CORAM : G.S. KULKARNI, J.
DATE : 18th JANUARY, 2017.

P.C. :

1 Heard Mr. Marathe learned counsel for the petitioners, and Ms. Gadgil, Learned counsel for the respondent Nos.1 to 8, 11, 14 and 15. The challenge in the Petition is to an order dated 09.06.2015 passed by the Additional Commissioner, Konkan Division, whereby the Revision Application as filed by the petitioners under section 257 of the Maharashtra Land Revenue Code, has been rejected.

2 The dispute in the proceeding before the Revenue Authorities pertains to the addition of names of the respondents by mutation entry No.7928. The contention as urged on behalf of the petitioners is that there was a partition which was effected in regard to the joint family property of deceased Babu and thus, the names of the concerned respondents ought not to have been mutated. The

second contention is also on the basis of the partition that separate khata numbers which was also in pursuance of the partition. The next contention as urged on behalf of the petitioner is that the concerned respondents were well aware of the mutation entry No.7504 by which the names of the petitioners were mutated. It is stated that this was in the year 1995 and that as the respondents were well aware of this since the year 1995, Section 149 of the Maharashtra Land Revenue Code, becomes applicable and thus there could not have been a subsequent application, as made in 2009 for adding the names of these respondents.

3 On the other hand the learned counsel for the respondents has supported the impugned order passed by the Additional Commissioner. She would submit that there are concurrent findings as recorded by all the four authorities viz. the Circle Officer, the Sub-divisional Officer, the Collector and the Commissioner. It is submitted that the contention of the petitioners that there was a partition, is also not accepted by the authorities, as the petitioners did not produce any material on record to show that there was a partition as ascertained on their behalf.

4 I have perused the orders passed by the different revenue authorities as noted above. In my opinion, there is much substance in what has been urged on behalf of the respondents. The perusal of these orders clearly indicate that the petitioners could not prove the fact that the partition had actually taken place, there was no material to that effect which was placed on record. Thus all the contentions of the petitioners on the basis of the alleged partition

cannot be accepted. Secondly, as regards the issue of knowledge of the respondents of the mutation entry No.7504, though oral evidence came to be recorded before the Circle Officer, nowhere it has come on record that the concerned respondents had actually the knowledge of the mutation entry No.7504 by which the names of the petitioners came to be recorded in the revenue records, from the time it was made as urged by the petitioners. Thus the submission as urged on behalf of the petitioners that the impugned order is bad in view of Section 149 of the Maharashtra Land Revenue Code, cannot be accepted. All these are findings of facts, as recorded by the authorities on the basis of documentary and oral evidence. I do not find that there is any perversity in the findings as recorded by the authorities below as also in the impugned order.

5 The Writ Petition is devoid of merits and is accordingly rejected. No costs.

(G.S. KULKARNI, J.)