IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7512 OF 2018 WITH
WRIT PETITION NO. 7513 OF 2018 WITH
WRIT PETITION NO. 7516 OF 2018 WITH
WRIT PETITION NO. 7520 OF 2018 WITH
WRIT PETITION NO. 7521 OF 2018

TRIMBAK PANDHARINATH THOMBRE AND OTHERS
VERSUS
BHASKAR PANDHARINATH THOMBRE AND ANOTHER
...
Advocate for the Petitioners : Shri S. V. Natu (in wp 7512/2018 and 7513/2018)
Advocate for the Petitioners : Shri R. S. Deshmukh h/f. Shri M. B. Ubale (in WP Nos. 7516/2018, 7520/2018 and 7521/18)
Advocate for Respondent No.1 : Shri G. K. Naik Thigle (Respondent No. 6 in WP Nos. 7516/2018, 7520/2018 and 7521/2018)
AGP for Respondent No. 2 : Shri P. N. Kutti (Respondent Nos. 1 to 5 in WP Nos. 7516/2018, 7520/2018 and 7521/2018)
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CORAM : RAVINDRA V. GHUGE, J.

DATED : 06th OCTOBER, 2018.
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PER COURT :

1. I have heard the learned Advocates for the respective sides at length and have expressed a view that these cases, involving mutation entries would be squarely covered by the view taken by this Court in ***Shrikant R. Sankarwar and others vs. Krishna Balu Naukudkar, 2003 (3) Bom.C.R. 45,***

whereby it is held that the Civil Court would decide the right, title and interest of a litigant over a suit property and such adjudication of the rights by the civil Court would strictly bind the revenue authorities, insofar as the revenue entries are concerned.

2. However, during the course of the hearing, Shri Thigle, learned Advocate appearing on behalf of the same respondent No.1 Bhaskar submits that the impugned order of the Honourable Minister dated 16/05/2018 has undergone a correction by his order dated 18/06/2018.

3. By this correction, I find that the conclusion of the Honourable Minister in Clause 2 has been altered diagonally opposite to what has been actually written in the order. In short, the decision of the Additional Commissioner, Aurangabad Division in the Appeals decided on 30/08/2017, has been quashed and set aside. By the correction carried out, the said order has been sustained.

4. It is undisputed that the litigating sides are already

involved in Special Civil Suit No. 51/2011 which is pending before the learned Civil Judge, Senior Division, Ambejogai. Respondent No.1 Dr. Bhaskar Pandharinath Thombre is the plaintiff in the said suit filed on 30/06/2011. All the relatives, that is the sons, daughters, sisters and the next generation are all added as defendants. The said plaintiff prays for partition and separate possession in the ancestral properties set out in the said suit.

5. It appears from the record that the said plaintiff first approached the SDO some time in 2008, according to him and began the litigation as regards the correctness of the mutation entries which were said to be sanctioned in 1995. Had he followed the said path of litigation under the MLR Code, it could have been open to the litigating sides to canvass their rights insofar as the revenue entries are concerned. However, the said plaintiff then rushed to the civil Court as recorded above and filed a civil suit seeking partition and separate possession, delivery of separate possession and alongwith these reliefs, a declaration was sought that the sale-deeds executed by the defendants, be declared as null and void.

6. In *Shrikant Sankanwar (supra)*, this Court has dealt with the law as regards the mutation entries. It was concluded that mutation entries are purely for fiscal purposes and for payment of taxes. Such revenue entries do not constitute or decide any title to any property and the revenue authorities cannot decide the rights of the parties under the MLR Code. It was further held that it is only the Civil Court which can decide the rights and the title to a property and such a decision would bind the revenue authorities and not vice-a-versa.

7. The learned Advocate for the first respondent Bhaskar, who is the plaintiff in the several petitions submits, on instructions, that the matter can be relegated to the Honourable Minister for a re-hearing in view of the correction carried out suo-motu by him on 18/06/2018 thereby disturbing the impugned order. I find that the said submissions does not deserve to be entertained as I have found that there are numerous disputed questions being raised by these litigating sides before the revenue authorities. When these mutation entries are in relation to those properties which

are already placed in the common hotch potch in the pending suit of 2012, it would be in the interest of each litigating side that the civil Court should decide their respective rights and the revenue authorities would then be assisted by the judgment of the civil Court making their task easy to carry out mutation entries strictly as per the decision of the civil Court.

8. In the above backdrop, these petitions are disposed off with the following directions :-

(a) All the litigating sides would maintain status-quo with regard to the suit properties as on date and would not create third party interest or encumbrances on the said properties.

(b) The revenue authorities would maintain status-quo with regard to the revenue entries as existing today.

(c) The Trial Court shall decide Special Civil Suit No. 51/2011 as expeditiously as possible and in any case on or before 30/06/2019.

(d) The Trial Court would be at liberty to refuse adjournments if they are sought on unreasonable or trivial grounds.

(e) All the contentions of the litigating sides in view of their pleadings before the Trial Court shall be considered on their own merits.

(f) After the civil Court decides the rights of the respective sides by its judgment, whenever necessary, the revenue entries would be altered in accordance with the verdict of the civil Court.

(g) The concerned Court dealing with the civil suit and the civil litigation would not be influenced by any observation found in the orders passed by the revenue authorities and the length of revenue entries first recorded in 1990.

9. Needless to state, the proceedings under the MLR Code which have been remanded to the office of the SDO at Ambajogai shall be kept in abeyance and may not be necessary as the civil Court would be deciding the rights of the parties.

(RAVINDRA V. GHUGE, J.)

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