

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

940 WRIT PETITION NO. 11939 OF 2016

KASHINATH APPASAHEB KALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. V. D. Hon, Senior Counsel i/b Mr. A. V. Hon.
AGP for Respondent Nos.1 to 3 : Mr. S. K. Tambe.
Advocate for Respondent No.4 : Mr. Vivek V. Tarde.
Advocate for Respondent No.5 : Mr. Tushar M. Tandale.

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CORAM : **V. L. ACHLIYA, J.**
DATE : 11th April, 2018.

ORDER:

. The Petitioner has preferred this petition seeking the following relief:

"B) Quash and set aside the order dated 30.9.2016 passed by the Additional Divisional Commissioner, Nashik Division, Nashik in R.T.S. Appeal No.65 of 2013 and the order dated 17.9.2012 passed by the Sub Divisional Officer, Karjat in revision application No.70 of 2012 and confirm the order dated 29.1.2013 passed by the Additional Collector, Ahmednagar passed in R.T.S. Appeal No.146 of 2012."

2 Mr. Hone, Senior Counsel appearing for the Petitioner invited the attention to the affidavit of Respondent No.4 and pointed out that Respondent No.4, who has challenged the mutation entry recorded in favour of the Petitioner, has categorically stated that he has raised the objection under some misunderstanding and further stated that he is withdrawing the objection.

3 The learned counsel representing Respondent No.4 submits that the objection was raised under some misunderstanding and the controversy between the families of Respondent Nos.4 and 5 has been resolved. In view of the settlement arrived, the Respondent No.4 have no objection to record the mutation entry in favour of the Petitioner.

4 It appears from the record and proceedings that the order of recording mutation entry in favour of Petitioner was challenged by Respondent No.4 before the Sub-Divisional Officer, who has allowed the appeal and set aside the order passed by Tahsildar directing to record mutation entry in favour of the Petitioner. In appeal against said order, the Additional Collector allowed the appeal and restored the order of Tahsildar. The order passed by the Additional Collector was

challenged by way of revision before the Additional Divisional Commissioner, Nashik Division, Nashik, who in turn set aside the order passed by the Additional Collector. Being aggrieved, the Petitioner has preferred this petition. In the affidavit filed by Respondent No.4, he has categorically stated about the settlement of dispute amongst the brothers and withdrawal of objection to record mutation entry in favour of Petitioner. In paragraph 4 of the affidavit, Respondent No.4 has stated as below:

"4. I say that as a result of the some misunderstanding between my and my brother I had filed Revision Mo.70 of 2012 challenging the orders passed under Section 85 of the Maharashtra Land Revenue Code effecting the partition in the family. I say that now the entire controversy between me and my brother has been settled. I have therefore, no grievance regarding the partition that was effected under Section 85 of the Maharashtra Land Revenue Code whereby allotting 0.25 R land to the share of my brother Satish Bhalchandra Kulkarni. I say that I am therefore, withdrawing the all proceedings initiated by me before the Sub Divisional Officer, the Revision before the Commissioner as entire controversy in our family about shares has been settled and I am therefore, withdrawing my original grievance raised before the Sub Divisional Officer,

Karjat Division, Karjat even revision application No.70 of 2012. Similarly I am also withdrawing revision application filed by me bearing R.T.S. Appeal No.65 of 2013 filed before the Additional Commissioner Nashik Division, Nashik.”

5 In view of the settlement arrived, the orders passed by all the authorities below i.e. Tahsildar, Shrigonda, Sub-Divisional Officer, Karjat, Additional Collector, Ahmednagar and the Additional Divisional Commissioner, Nashik Division, Nashik, are set aside. The Petitioner and Respondent Nos.4 and 5 are directed to appear before the Tahsildar, Shrigonda on 25th April, 2018 at 11:00 am and produce the copy of this order. In case the parties appear before the Tahsildar, Shrigonda as directed on 25th April, 2018 or any time thereafter, the Tahsildar, Shrigonda is directed to record the statements of all the parties concerned and take further steps to recording of mutation entry in favour of Petitioner.

6 The writ petition is disposed of in above terms.

[V. L. ACHLIYA, J.]