

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 14653 OF 2017

**EKRUP MADHAVRAO MAHAJAN
VERSUS
THE DEPUTY COMMISSIONER NASHIK AND OTHERS**

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Advocate for the Petitioner : Shri A.D.Shinde
AGP for Respondent Nos.1 to 6 : Shri S.R.Yadav
Advocate for Respondent Nos.7A to 7C, 8 and 9 : Ms.S.M.Zaware

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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 13th JUNE, 2018.**

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PER COURT :

1. The petitioner has assailed the orders passed by the revenue authorities with regard to the mutation entries. The petitioner has specifically put forth the prayers in prayer clause B, C and D as under :-

"B. By appropriate writ, order or direction quash and set aside the order dated 04/12/2012 passed by the respondent No.4/Naib Tahsildar, Kopergaon in Application No. 09 of 2012, the order dated 24/06/2015 passed by the Sub Divisional Officer, Shirdi in R.T.S. Appeal No. 296 of 2013, the order dated 30/08/2016 passed by the learned Additional Collector, Ahmednagar in IInd R.T.S.Appeal No. 415 of 2015 and order dated

16/10/2017 passed by the Deputy Commissioner (Revenue), Nashik Division, Nashik in R.T.S.Revision No. 573 of 2016 and the mutation entry No. 5729 passed in favour of the petitioner may kindly be maintained.

(C) Pending hearing and final disposal of this writ petition, the effect, operation, execution and implementation of the impugned orders order dated 04/12/2012 passed by the respondent No.4/Naib Tahsildar, Kopergaon in Application No. 09/2012, the order dated 24/06/2015 passed by the Sub Divisional Officer, Shirdi in R.T.S. Appeal No. 296 of 2013, the order dated 30/08/2016 passed by the learned Additional Collector, Ahmednagar in IInd R.T.S.Appeal No. 415 of 2015 and order dated 16/10/2017 passed by the Deputy Commissioner (Revenue), Nashik Division, Nashik in R.T.S.Revision NO. 573 of 2016 may kindly be stayed.

(D) Pending hearing and final disposal of this writ petition, by appropriate writ, order or directions, the respondent Nos. 5 and 6 may kindly be restrained from mutating names of respondent Nos. 7A to 9 in pursuance to the impugned orders dated 04.12.2012, 24.06.2015, 30.08.2016 and 16.10.2017 passed by respondent Nos. 1 to 4".

2. I have heard the submissions of the learned advocates for the respective sides and the learned AGP on behalf of

respondent Nos. 1 to 6.

3. It is undisputed that Regular Civil Suit No. 6/2009 filed by respondent Nos. 7A to 7C seeking partition and separate possession is pending adjudication. The temporary injunction granted by the Trial Court binds the defendants. Since Madhavrao Mahajan, the original defendant has passed away, the injunction would now bind even the L.Rs. of the deceased.

4. At the behest of the petitioner, who is the son of the deceased Madhavrao, the litigation has reached the revenue authorities to the level of the Additional Deputy Commissioner. The orders of the revenue authorities certifying mutation entries to be taken in the name of the original plaintiff, are now challenged in this petition.

5. This Court, in the matter of *Shrikant Shankanwar and others Vs. Krishna Balu Naukudar 2003(3) BCR 45* has laid down the law that mutation entries, which are purely for fiscal purposes, do not decide the right, title or interest of any individual in the property concerned. Such rights can be

adjudicated upon only by the civil court and the verdict of the civil court crystallizing the right, title and interest of a person, would bind the revenue authorities.

6. As such, as the rights of the litigating sides are subject matter of Regular Civil Suit No. 6/2009, the impugned orders of the revenue authorities would be subject to the decision of the Trial Court in the pending suit.

7. Considering the above, this petition is disposed of by directing that the impugned mutation entries would be subject to the result of R.C.S.No. 6/2009 and the litigating sides shall maintain status-quo as existing today until the decision in the said suit. Needless to state, the injunctory order dated 17/04/2007 shall continue to bind the defendants and the L.Rs. of the deceased defendants till the suit is finally decided.

8. By the consent of the parties, the hearing in R.C.S. No. 6/2009 is expedited and the Trial Court is directed to decide the said suit as expeditiously as possible and preferably on or before 31/12/2018.

9. The litigating sides are restrained from seeking adjournments on trivial or unreasonable grounds and the Trial Court would be at liberty to reject such applications.

(RAVINDRA V. GHUGE, J.)

shp/-