

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5505 OF 2015

Smt. Ratna Rupchand Goplani

... **Petitioner**

V/s.

The State of Maharashtra & Ors.

... **Respondents**

Mr. Girish Godbole I/b Sumit Kothari for the Petitioner.

Ms. Kavita Solunke, AGP for Respondent No.1.

Ms. Anupama Shah for the Respondent No.2.

CORAM : R.D. DHANUKA, J.

DATE : 09th JULY, 2018

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the Petitioner has impugned the order dated 06.09.2014 passed by the Respondent No.1 dismissing the Appeal filed by the Petitioner and has also impugned the order dated 21.03.2013 passed by the learned Deputy Director of Land Record, Pune.

2 The Petitioner has been relying upon various registered documents including Sale Deed. Respondent No.2 filed an Appeal against the order of recording the name of the Petitioner in the mutation entry before the District Inspector Land Records, Pune. The District Inspector Land Records has dismissed the said Appeal filed by the Petitioner. The Revision Application filed by the Petitioner is dismissed by the learned Revenue Minister. Both the Authorities

have considered the issue of title in respect of the property in question in favour of the Respondent No.2 to 4b.

3 Mr. Godbole, learned Counsel for the Petitioner invited my attention to the judgment dated 07.07.2016 in Writ Petition No. 736 of 2016 in case of Datwani Hotels Private Limited V/s. State of Maharashtra and another in support of his submissions that the learned Divisional Joint Registrar could not have decided the issue of title in property while deciding the revision application under Section 257 of Maharashtra Land Revenue Act, 1966. In my view, the said judgment of this Court, applies to the facts of this Court. This Court has taken a view that issue of title while deciding the para of mutation entry by the Authority under the provisions of Maharashtra Land Revenue Act, cannot be decided. In my view, both the orders are thus, contrary to the principle of law laid down by this Court in the case of Datwani Hotels Pvt. Ltd. (Supra) and several other judgments which are binding on this Court.

4 Orders dated 06.09.2014 and 21.03.2013 passed by the Respondent No.1 are accordingly, quashed and set aside.

5 It is made clear that Respondent No.2 to 4b would be at liberty to file Civil Suit for challenging the validity of the documents relied by the Petitioner while applying for the recording their names in the mutation entry. If any civil suit is filed by the Respondent No.2 for challenging the validity of the documents relied by the Petitioner while application for recording the name in the revenue record

or for adjudication of the title of the Respondent No.2 in the property in question, the same shall be decided by the Civil Court on its own merits.

6 All contentions on merits in that suit are kept open.

7 Writ Petition is allowed in the aforesaid terms. No order as to costs.

(R.D. DHANUKA, J.)