

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

WRIT PETITION NO.5156 OF 2013

Tatyaba Pandharinath Chavan .. Petitioner
Vs.
Digambar Pilu Chavan (since deceased)
through his legal heirs
1A. Subhash Digamber Chavan & Ors. .. Respondents

Mr.Abhijit Kulkarni for the petitioner.
Ms.K.N. Solunke, AGP for the respondent no.5.

CORAM : R.D. DHANUKA, J.
DATE : 10th July 2018

P.C.:

. By an order dated 16th July 2013 passed by this Court, notice was directed to be issue for final disposal of the writ petition to the respondents. All the respondents are served. Except the learned AGP for the respondent nos.5 & 6, the respondent nos.1 to 4 are absent. No affidavit-in-reply is filed by the respondent nos.1 to 4.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 26th February 2013 passed by the Additional Commissioner, Pune Division, Pune dismissing the revision application filed by the petitioner. The petitioner has also impugned the order dated 21st August 1996 passed by the Additional Collector, Pune and the judgment and order dated 20th June 1989 passed by the Sub-Divisional Officer, Baramati and also the order dated 23rd July 1986 passed by the Circle Officer.

3. It is the case of the petitioner that the petitioner has purchased the suit property i.e. 30R land from Gat No.1528/1 admeasuring about 1H 82R from Smt.Banubai Ganagaram Chavan by the registered sale deed dated 18th January 1985. After purchasing the share of Banubai vide registered sale deed dated 18th January 1985, his name was entered into 7/12 extract vide Mutation Entry No.2219. The respondent no.2 however raised an objection about the said mutation entry. The Circle Officer has cancelled the said Mutation Entry No.2219 and deleted the name of the respondent no.2. A revision application filed by the petitioner is rejected by the learned Sub-Divisional Officer. Learned Additional Collector has also rejected the appeal filed by the petitioner by an order dated 21st August 1996. The learned Additional Commissioner has rejected the revision application filed by the petitioner. The petitioner thus preferred this writ petition under Article 227 of the Constitution of India.

4. Learned counsel for the petitioner invited my attention to various orders passed by the authorities and submits that the authorities below could not have ignored the registered sale deed in favour of the petitioner based on which the name of the petitioner entered in the mutation entry. He submits that issue of title could not have been decided by the revenue authority while considering an application for recording the name of a party in the mutation entry. In support of this submission, learned counsel placed reliance on the judgment of this Court in the case of *Shrikant R. Sankanwar & Ors. Vs. Krishna Balu Naukudkar reported in 2003(2) Mh.L.J. 276.*

5. Ms.Solunke, learned AGP appearing for the respondent nos.5 & 6, on the other hand, invited my attention to some of the contentions raised by the Government in the affidavit-in-reply.

6. A perusal of the record indicates that name of the petitioner was recorded in the mutation entry on the basis of the registered sale deed. The subsequent authorities, however, totally overlooked the registered sale deed and has exceeded their powers under Sections 149 and 150 of the Maharashtra Land Revenue Code, 1966 (for short “the said Code”) and had entered into the arena of adjudication of the title of the respondents. This Court in the case of ***Shrikant R. Sankanwar & Ors. Vs. Krishna Balu Naukudkar (supra)*** which judgment has subsequently followed in the catena of the decisions has held that the provisions of Sections 149 and 150 of the said Code only deal with the revenue records being updated in relation to the immovable properties for the purpose of assessment of revenue and collection thereof.

7. Revenue record does not show by itself a title to the property in favour of any person. In my view, the subsequent authorities could not have gone into the issue of title while rejecting the appeal and the revision application filed by the petitioner. In the revenue proceedings filed under Sections 149 and 150 of the said Code, the authorities cannot ignore the registered title. In my view, all orders passed by the authorities which are impugned by the petitioner in this petition are ex facie contrary to and in violation of Sections 149 and 150 of the said Code and also the principles of law laid down by this Court in the case of ***Shrikant R. Sankanwar & Ors. Vs. Krishna Balu Naukudkar (supra)*** and thus deserve to be set aside.

8. A perusal of the affidavit-in-reply filed by the State Government does not indicate that the contentions raised by the petitioner on merits and on validity of the impugned orders passed by the authorities are dealt with in the affidavit-in-reply.

9. I therefore pass the following order :-

- (i) Writ petition is made absolute in terms of prayer clause (b).
- (ii) Revenue entry in the name of the petitioner to be restored within two weeks from the date of communication of this order without fail.
- (iii) Parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.