

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

WRIT PETITION NO. 9219 OF 2018

Tatyabhau Kanhu Hargude	... Petitioner
Versus	
The State of Maharashtra and others	... Respondents

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Mr. Suhas B. Rohile for the Petitioner.

Mr. Y. S. Khochare, AGP for the Respondent Nos. 1 to 4.

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CORAM : A. S. OKA AND M. S. SONAK, JJ.

DATE : 19th OCTOBER, 2018.

P. C.:

1. On the last date, time was granted to the learned AGP to take instructions. However, he has not received further instructions. Considering the controversy involved in their petition, the same is forthwith taken up for final disposal. We issue Rule. The learned AGP waives service for the respondents.

2. The petitioner is relying upon two registered documents. The first is the deed of release dated 21st March, 1995 executed by one Kacharabai Piraji Dherange and three others in favour of the petitioner and one Maruti Kanhu Hargude. A copy of the release-deed is annexed as Annexure-“B” to the petition. On the said copy,

there is an endorsement of the Sub-Registrar of Assurances, Haveli No.27, Pune about the registration of the said document. The other material document relied upon by the petitioner is a registered-deed of partition dated 20th April, 2016 to which the petitioner and others are parties. A copy of the deed of partition is annexed to the petition as Annexure-“A”. From the copy, it appears that the said document has been duly registered in the office of the Joint Sub-Registrar of Assurances, Haveli-27, Pune.

3. The grievance made in the petition is that notwithstanding the express provisions of the Maharashtra Land Revenue Code, 1966 (the said Code), necessary mutation entries have not been effected on the basis of the said documents in respect of the property bearing Gat No. 129 at village Taleranwadi, Taluka Haveli, District Pune. The reliance is placed on the representations made by the petitioner from time to time to the village Talathi, Tahsildar of the concerned Taluka and the District Collector at Pune.

4. The learned AGP has placed on record a copy of letter dated 5th October, 2018 addressed to him by the Tahsildar, District Pune.

5. After having heard the learned Counsel appearing for the parties, in the light of express provisions of the said Code, we are constrained to observe that the petitioner ought not have been driven to file this petition under Article 226 of the Constitution of India.

6. Under Section 154 of the said Code, it is the obligation of the registering officer under the Indian Registration Act, 1908 to send intimation to the village Talathi and Tahsildar of the concerned Taluka when any document purporting to create, assign or extinguish any title to, or any charge on, land used for agricultural purposes, or in respect of which a record of rights has been prepared is registered under the Indian Registration Act, 1908. Necessary forms for giving such intimation have been incorporated under the provisions of the Maharashtra Land Revenue Record of Rights and Registers (Preparation and Maintenance) Rules, 1971. Under Section 149 of the said Code, it is provided that it is the duty of any person acquiring by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right in respect of a land to report the said acquisition to the village Talathi within three

months from the date of the acquisition. In view of Section 154, the second proviso provides that when a person acquires such right by a virtue of registered document, he is under no obligation to report to the Talathi. Sub-Section (1) of Section 150 of the said code, which reads thus:

“(1) The Talathi shall enter in a register of mutations every report made to him under section 149 or any intimation of acquisition or transfer under section 154 or from any Collector.”

7. Sub-Section (1) of Section 150 makes it clear that it is the obligation of the Talathi to enter in a register of mutations every report made to him under Section 149 or any intimation of acquisition or transfer under Section 154 of the said Code. Once such mutation entry is made, further procedure as contemplated from Sub-Section (2) of Section 150 onwards has to be followed. In the present case, apart from the fact that in respect of both the aforesaid registered documents, intimation under Section 154 of the said Code must has been given to the village Talathi by the registering officer, the letters annexed to the petition and in particular Annexure-“D” dated 16th January, 2018 show that the

petitioner by addressing a letter to the concerned village Talathi had supplied true copies of the registered partition deed and registered release-deed.

8. Therefore, the Talathi is under obligation under Sub-Section (1) of Section 150 to make entries in the register of mutation on the basis of the said two registered documents and thereafter, to follow further procedure contemplated under Sub-Section (2) onwards.

9. The grievance is that necessary mutation entry in respect of land bearing Gat No. 129 has not been taken. In view of Sub-Section (2) onwards of Section 150, further procedure needs to be followed after necessary entry is taken in the register of mutations. Accordingly, we dispose of the petition by passing the following order:

ORDER

- (i) We direct the fourth respondent to make entry in the register of mutation on the basis of the deed of release dated 21st March, 1995 and the sale deed dated 20th April, 2016, if not made till today, within a period of 15 days from the date on which this order is uploaded. We make it clear that

entries shall be made in terms of Sub-Section (1) of Section 150 in respect of all the properties affected by the said two documents including land bearing Gat No. 129 of village Taleranwadi, Taluka Haweli, District. Pune;

- (ii) Needless to add that the third respondent shall also take immediate action in terms Sub-Section (2) of Section 150. The entire procedure as contemplated by Sub-Section (2) to Sub-Section (6) of Section 150 shall be complied as expeditiously as possible and in any event within a period of three months from the date the on which entry is made in the register of mutations as directed;
- (iii) We make it clear that we had no adjudication on the legality and validity of the aforesaid two documents as well as title claimed to the affected properties by the petitioners and other parties to the documents;
- (iv) We make it clear that even if entries are made as directed above, it will have no effect on that title to the subject properties;
- (v) Rule is made absolute in the above terms with no order as to costs.

(M. S. SONAK, J.)

(A. S. OKA, J.)