

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

**WRIT PETITION NO. 3966 OF 2019**

Prabhawatibai W/o. Sangram Nijwante (Teli)  
through G.P.A.

.... Petitioner

Versus

Achal S/o. Govindrao Ostwal & Ors.

.... Respondents

.....

Mr. V. P. Sawant, Advocate for the petitioner

Mr. M. H. Shaikh, Advocate h/f Mr. V. R. Dhorde, Advocate for  
respondent Nos. 1 to 4 & 6

Mr. V. D. Gunale, Advocate for respondent No. 5

Mr. S. W. Munde, AGP for respondents No. 9 to 13

Mr. A. D. Hande, Advocate for respondent No. 7

.....

**CORAM : RAVINDRA V. GHUGE, J.**

**DATED : 19<sup>TH</sup> SEPTEMBER, 2019**

**PER COURT:-**

1. This Court (Coram : P. R. Bora, J.) had passed an order  
on 25.03.2019, which reads as under:

**"ORDER**

*i) Issue notice to the respondents, returnable after  
three weeks. Advocate Shri. Gunale waives notice for  
respondent no. 5. The learned AGP Shri Patil waives  
notice for respondent nos. 9 to 13.*

*ii) Till then, respondent nos. 1 to 4 and 6 shall not  
create any third party interest over the subject property."*

2. It is obvious that, the petitioner/original plaintiff in Spl. Civil Suit No. 51/2019 is aggrieved by the order of the Hon'ble Minister by which the order of the Addl. Divisional Commissioner, Aurangabad, dt. 17.04.2017, with regard to the entry of the name of the petitioner in the other rights column and the mutation entry no. 5219, has been quashed and set aside.

3. This Court has crystallized the law in the case of **Shrikant R. Sankanwar & others. Versus Krishna Balu Naukudkar** reported in 2003(3) Bom.C.R. 45, that mutation entries are meant purely for taxation purposes. Such entries do not decide the right or title of any litigant to the suit property. It is only the civil court which can decide the right and title of a litigant and a decision of the civil court would bind the revenue authorities who are obliged to carry out mutation entries in tune with the judgment of the civil court.

4. Considering the above, this petition can be disposed off by recording that the impugned order of the Minister and the earlier order of the Addl. Divisional Commissioner would be subject to the result in Spl. Civil Suit No. 51/2010, since the right of the petitioner plaintiff to the extent of said suit property shall be crystallized in the said proceedings.

5. The learned advocate for the petitioner submits that, as this Court has protected the petitioner vide order dt. 25.03.2019, the adjudication in the Spl. Civil Suit can be expedited and the said protection which is limited to the extent of preventing the respondents from creating third party interest, may be continued.

6. The learned advocates appearing on behalf of the respondents have opposed the said request and submit that, no such protection could be granted to the petitioner as her application for temporary injunction has been rejected by the trial Court and her Misc. Application has also been dismissed. So also, the Appeal from Order No. 198 of 2011 has been dismissed by this Court by order dt. 29.11.2011.

7. In view of the above, this petition is disposed off. The impugned order of the Hon'ble Minister dt. 28.02.2019 as also the order of the Addl. Divisional Commissioner, Aurangabad dt. 17.04.2019 shall be subject to the final decision in Spl. Civil Suit No. 51/2010, in the light of the law laid down by this Court in the case of Shrikant (supra).

8. The learned trial Court shall decide Spl. Civil Suit No. 51/2010, as expeditiously as possible and in any case on or before 31.03.2020. All the litigating sides shall extend their cooperation for such early disposal.

9. Until the suit is decided or until 31.03.2020, whichever is earlier, the protection granted by this Court on 25.03.2019, would continue. However, the respondents, who are covered by the said order, would be at liberty to approach the trial Court and seek permission for creating any third party interest or encumbrance on the said property.

**[ RAVINDRA V. GHUGE ]**  
**JUDGE**

psg