

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

WRIT PETITION NO. 4410 OF 2018

Rehana Shaikh Abdul Hafiz and others	... Petitioners
Versus	
Shaikh Juned Shaikh Hamid and others	... Respondents

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Mr. V. P. Kadam, Advocate for petitioners.
Mr. B. L. Sagar Killarikar, Advocate for respondent Nos. 1 to 6.

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CORAM : M. S. KARNIK, J.

DATED : 6th AUGUST, 2019

PER COURT :-

1. Heard learned counsel for the petitioners.
2. Learned counsel for the petitioners invited my attention to page 13 of the paper-book. It is a compromise recorded by the parties before the learned Additional Divisional Commissioner, Aurangabad. The parties therein acted in terms of the compromise dated 12.04.2016, which include the petitioners.
3. The respondents filed review before the learned Additional Divisional Commissioner, pointing out that the compromise is illegal, as the same was entered into behind back of the respondents and that the compromise prejudicially affects the respondents. This review was dismissed on the ground of delay. The respondents filed second review

petition before the learned Additional Divisional Commissioner. The second review though not maintainable was being entertained and therefore, the petitioners filed Writ Petition No.2853 of 2018 in this court. This Court vide order dated 19.03.2018 allowed the writ petition and held that the second review is not maintainable. However, liberty was granted to the respondents to file appropriate proceedings before the Hon'ble Minister. Accordingly, the revision petition has been filed before the Hon'ble Minister and the same is pending.

4. In the meantime, it appears that, based on the compromise, a mutation entry came to be recorded in favour of the petitioners. The respondents therefore challenged the recording of this mutation entry by filing an Appeal before the Sub-Divisional Officer under the provisions of the Maharashtra Land Revenue Code, 1966.

5. It is the contention of learned counsel for the petitioners that the proceedings are pending before the Hon'ble Minister. He would submit that in such a case, the Sub-Divisional Officer ought not to proceed with the appeal as the decision passed in Review before the Hon'ble Minister will have a bearing on the Appeal. It is the submission of learned counsel for the petitioners that if the respondents succeed before the Hon'ble Minister, there will be unnecessary multiplicity of proceedings. It is therefore submitted by the learned counsel for the petitioners that the proceedings before the Sub-Divisional Officer be stayed till the decision before the Hon'ble Minister.

6. In my opinion, the proceedings before the Sub-Divisional Officer need not be stayed which are against the mutation entry effected pursuant to the recording of the compromise. It is pertinent to note that mutation entry is recorded on the basis of the compromise. This was at

the instance of the petitioners though the respondents challenge to the compromise was pending. Having gone ahead with giving effect to the compromise, now it is not open for the petitioners to stall the proceedings filed by the respondents challenging the mutation entry. The revision proceedings before the Hon'ble Minister would be decided on its own merits. The consequences of the decision can always be gone into and dealt with in appropriate proceedings which may be filed by either parties. The respondents have availed a statutory remedy challenging the mutation entry, which is based on compromise.

7. In my opinion, there is no ground to stay the proceedings before the Sub-Divisional Officer in respect of the mutation entry recorded pursuant to the compromise.

8. With these observations, the writ petition is disposed of.

[M. S. KARNIK, J.]

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