

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

WRIT PETITION NO. 10302 OF 2018

Shahurao Madhavrao Tekale (died)
through legal heir
Kantrao s/o Shahurao Tekale
Age: 57 years, Occu. Agri.,
R/o. Sangvi Kinare, Tq. Partur,
Dist. Jalna

... Petitioner

Versus

1. Vishnu s/o Mahadeo Shinde
Age: 55 years, Occ. Agri.,
R/o. Nathra, Tq. Pathri,
Dist. Parbhani
2. The Tahsildar
Tahsil Office, Partur,
3. Sub-Divisional Officer,
Partur.
4. The Additional Collector,
Jalna, Dist. Jalna.
5. The Additional Divisional Commissioner,
Aurangabad, Dist. Aurangabad

... Respondents

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Mr. Gopal D. Kale, Advocate for petitioner.

Mr. S. S. Shinde, Advocate h/f Mr. S. J. Salunke, Advocate for
respondent No.1.

Mr. A. B. Chate, AGP for respondent Nos. 2 to 5.

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CORAM : R. G. AVACHAT, J.

JUDGMENT RESERVED ON : 18th SEPTEMBER, 2019

JUDGMENT PRONOUNCED ON: 10th OCTOBER, 2019

JUDGMENT:-

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally, by consent.

2. The challenge in this writ petition under Article 227 of the Constitution of India, is to the judgment and order passed by the learned Additional Divisional Commissioner, Aurangabad on 31.05.2018 in Case No.2001/ROR/REV/148 and the judgment and order passed by the Additional Collector, Jalna in Case No.95/RV/appeal/CR-14 dated 25.04.1997. By the impugned order, the revision application preferred by the petitioner herein, came to be rejected.

3. Facts of the case :

The petitioner claims to be the owner of an agricultural land admeasuring 8 Acre 3 Gunthas comprised in *Gut* No.48 and 49 (old Survey Nos.21 and 21-A). The petitioner claims that his father has purchased the said land way back in the year 1968. The name of the father of the petitioner, came to be recorded in the revenue record of the said land. Respondent No.1 is also the owner of an agricultural land admeasuring 8 Acre 2 Gunthas.

4. It is the case of petitioner that the scheme of consolidation of holdings in the village took place. While implementing the consolidation scheme in the village, a clerical mistake crept in, whereby 34 R land owned by the petitioner was wrongly shown in the name of respondent No.1 in the 7/12 extract of the land *Gut* Nos. 48 and 49. The petitioner, by application dated 05.01.1986 pointed out the said clerical mistake to the Naib Tahsildar, Partur. The Naib Tahsildar issued notice to respondent No.1 and recorded his statement. Respondent No.1 admitted that the excess land has been recorded in his name and he, therefore, gave consent to allow the application of the petitioner. The Naib Tahsildar, therefore, allowed the application by his order dated 06.07.1993 and directed to correct the record by deleting the name of respondent No.1 from 7/12 extract of the land *Gut* Numbers 48 and 49.

5. Respondent No.1 preferred appeal before the Sub-Divisional Officer. The Sub-Divisional Officer was pleased to dismiss the appeal. Respondent No.1, therefore, preferred appeal before the Additional Collector, Jalna. The learned Additional Collector was pleased to allow the appeal and set aside the orders passed by the Naib Tahsildar and the Sub-Divisional Officer. The petitioner, therefore, preferred revision application before the Additional Commissioner, Aurangabad. The

learned Additional Commissioner rejected the revision application by his order dated 31.05.2018.

6. The learned counsel for the petitioner took me through the provisions of the Maharashtra Land Revenue Code, 1966 to submit that the entries in the revenue record could be corrected by the revenue authorities, namely, the Naib Tahsildar and/or his higher authorities. In view of the learned counsel for the petitioner, the Additional Commissioner and the Collector erred in turning down the orders passed by the Naib Tahsildar and the Sub-Divisional Officer.

7. Learned counsel for respondent No.1 and the learned AGP representing the State authorities support the impugned orders.

8. Almost all the facts are not in dispute. The scheme of consolidation of holdings of the agricultural lands in the village took place. The land admeasuring 8 Acre 3 Gunthas in *Gut* No.48 came to be recorded in the name of the father of petitioner. 34 Gunthas land in the very Gut number came to be recorded in the name of respondent No.1. It is true that respondent No.1 admitted before the Naib Tahsildar that the land admeasuring 34 Gunthas has been wrongly mutated in his name. He has also given no objection for deleting his name from 7/12 extract of the land *Gut* No. 48. The name of respondent No.1 and the

father of petitioner came to be recorded in the revenue record of land *Gut* Nos. 48 and 49. As a result of implementation of the scheme of the consolidation of holdings. By virtue of Section 36-A of the Prevention of Fragmentation and Consolidation of Holdings Act, 1947, vests the jurisdiction of Civil Court or the Mamlatdar's Court to settle or decide or deal with any question which is by or under the said Act is required to be settled, decided or dealt with by the State Government or any officer or authority under the said Act.

This provision excludes the jurisdiction of Naib Tahsildar or the authorities under the Maharashtra Land Revenue. If the decision of the Naib Tahsildar and the Sub-Divisional Officer is accepted as it is, there would be inconsistency in the record. The entries in 7/12 extract of the land *Gut* No.48 would be inconsistent with the record prepared and created as a result of implementation of the scheme of consolidation of holdings. The appropriate remedy for the petitioner would be to approach the State Government or the competent authority under the said Act and get grievance redressed.

9. No fault could therefore be found with the impugned orders. The writ petition, therefore fails, the same is dismissed. Rule discharged.

[R. G. AVACHAT, J.]

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