

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

WRIT PETITION NO.2977 OF 2017

M/s.Echjay Industries Private Limited ..Petitioner
V/s.
State of Maharashtra
Through its Urban Development Dept & Ors. .. Respondents

Mr.Vishwajit Sawant a/w Mr.Nikhil Patil and Ms.Warisha Parkar i/b
Parinam Law Associates for the Petitioner.

Mrs.M.P. Thakur, AGP for the Respondent-State.

Mr.A.Y. Sakhare, Senior Advocate a/w Mr.J.J. Carloes and
Mr.Raviraj R. Shinde for the Respondent No.4.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 29th JANUARY 2019

P.C.

1. Heard Mr.Sawant, learned counsel for the petitioner,
Ms.Thakur, learned AGP for Respondent No.1 and Mr.Sakhare,
learned Senior Counsel for Respondent No.4.

2. By this petition under Article 226 of the Constitution of
India, the petitioner is challenging the order dated 14.02.2017

passed by the Minister of State in Urban Development Department thereby rejecting the petitioner's Appeal under Section 47 of the Maharashtra Regional and Town Planning Act (for short 'MRTP Act').

2. The petitioner preferred an application to Respondent No.2 for regularization of the subject structure under Section 44 of the MRTP Act, and the said application came to be rejected. Thereafter the petitioner approached the Hon'ble State Minister under Section 47 of the MRTP Act. The petitioner's appeal is rejected solely on the ground that there is dispute about the ownership of land in question and therefore the Appeal do not warrant any interference.

3. Having considered the rival submission and having gone through the petition along with annexures, we find the petitioner has purchased 0H 92R from Gut No.316/01 and 0H 47.8R from Gut No.330, Village-Kasara Amboli, Taluka-Mulshi, District-Pune by Registered Sale Deed. It appears that the petitioner has constructed a structure on the said land without permission from the Planning Authority. The structure being unauthorized, he is

constrained to make an application under Section 44 of the MRTD Act. The Respondent No.4 dispute the Sale Deed/Correction Deed, however, as on today he has not approached any Civil Court.

4. It appears that there is dispute between the party regarding access to the said property purchased by the petitioner. The respondent No.4 deny that the said property is purchased by the petitioner. However petitioners place reliance on the Mutation Entry regarding the property purchased by the petitioner.

It is by now well settled position of law that Mutation Entries are effected for fiscal purpose and does not create or extinguish any right nor does a Mutation Entry confer the title. Between the parties as of today no issue of title is pending in any Civil Court.

5. In above facts and circumstances, in our considered opinion, the Hon'ble State Minister could not have dismissed the petitioners Appeal on the ground that there is dispute regarding title of the petitioner. In our view, the Hon'ble State Minister ought to have disposed of the petitioners appeal on merits.

6. For the aforesaid reason we, dispose of the petition by passing the following order.

ORDER

(i) The impugned order dated 14.02.2017 passed by the Minister of State is quashed and set aside.

(ii) The matter is remanded back to the Hon'ble State Minister for fresh decision on merits.

All points and contentions of the respective parties are kept open.

(iii) Needless to mention that Hon'ble State Minister shall take decision after hearing all concerned as expeditiously as possible and preferably within the period of three months from the date of receipt of the said order.

(iv) During the pendency and final disposal of the said appeal before the Hon'ble State Minister both the parties shall maintain status-quo as of today regarding the offending structure.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)