

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

WRIT PETITION NO. 65 OF 2015

a/w.

CIVIL APPLICATION (ST) NO.10379 OF 2017

IN

WRIT PETITION NO. 65 OF 2015

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Kunbi Samaj Mandal

.. Petitioner

v/s.

The State of Maharashtra,
through Secretary, Revenue Dept & Ors.

.. Respondents

Ms. Neeta Karniik for the Petitioner.

Mr. V.S.Gokhale 'B' Panel Counsel for the State- Respondent Nos.1 to 8.

Mr. Sandeep Waghmare for the Respondent No.10.

Mr. Atul Damle, Sr. Counsel i/b. Hitesh Vyas for the Respondent No.21.

Mr. Madhav Jamdar with A.R.Shaikh for the Respondent nos.43 to 46.

Ms. Mohini Thorat i/b. Adv. Anil D'Souza for the Defendant Nos.34, 35, 37, 40 and 41.

CORAM : A.A.SAYED &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 15th NOVEMBER, 2019.

P.C. :

1. The grievance of the Petitioner essentially relates to mutation entries and the Order dated 01.03.2004 passed by the Revenue Minister. The Petitioner had earlier approached this Court by filing Writ Petition No.3769 of 2005 (Suryawanshi Kshatriya (Kunbi Samaj Mandal) v/s. State of Maharashtra & Ors). The said Writ Petition was dismissed by order dated 21.6.2005. The said order dated 21.06.2005

reads thus:

“The dispute in this petition is whether the land in question belongs to the community (Gavki) or whether it belongs to the respondent nos.7 and 8.

2. The respondent nos. 7 and 8 have filed suit for injunction and in that suit a decree has been passed by the civil court. The civil court has recorded finding that respondent nos 7 and 8 are in possession of the land in dispute. Against this decree an appeal was filed but that appeal has been dismissed by the district court on merits. The issue of title cannot be gone into in writ jurisdiction under Art 226 of the Constitution of India. In order to establish their title petitioner must file a substantive suit and seek appropriate declaration from the civil court.

3. Petition is dismissed with liberty to the petitioner to adopt appropriate remedy.”

2. It is now trite that Mutation Entries do not confer any title. There are several disputed questions of facts involved. The Division Bench of this Court has already held in the aforementioned order that the issue of title cannot be gone into in the writ jurisdiction of this Court under Article 226 of the Constitution. The Petitioner is required to establish its title to the subject lands by filing a Suit. There are several proceedings wherein Orders have been passed and wherein the Petitioner was a party Respondent. In the event the Petitioner succeeds in any

substantive proceedings/Suit, the Mutation Entries can always be altered.

3. In the light of the above, we are not inclined to entertain the Petition. Leaving the remedies of the Petitioner open, including the challenge to the sale permission dated 30th May, 2016 of the Divisional Commissioner, we dismiss the Petition.

5. In view of disposal of the Writ Petition, the Civil Application does not survive and is dismissed.

(ANUJA PRABHUDESSAI, J.)

(A.A.SAYED, J.)