

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

905 WRIT PETITION NO.4766 OF 2018

NUTAN EDUCATION SOCIETY SAILU THROUGH ITS
SECRETARY DR KULKARNI
VERSUS
THE ADDITIONAL COLLECTOR PARBHANI AND OTHERS

...
Advocate for Petitioner : Mr. Choudhary S.S.
AGP for Respondents : Mr. N.T. Bhagat
Party in person-Respondent No.4 : Dr. Khwaja Moinuddin
Inamdar
Advocate for Respondent Nos.5 to 7 : Mr. Qureshi Shaikhlal
Abdul Gaffar
...

**CORAM : ROHIT B. DEO, J.
DATED : 07th FEBRUARY, 2020.**

PER COURT:-

. The learned counsel for the petitioner society submits that copy of wrong order is annexed as order impugned.

2. Leave to substitute the wrong order by the correct order dated 12.09.2017. The substitution be carried out forthwith.

3. The learned counsel are heard on merits.

4. The petitioner Nutan Education Society, Selu, is aggrieved by the order dated 12.09.2017 rendered by the M.R.T. in Revision Application No.57/B/2015/Parbhani, whereby the M.R.T allowed the intervention application

preferred on behalf of respondents 4 to 7.

5. The petitioner-society preferred the revision challenging the order dated 11.05.2015 rendered by the Sub-Divisional Officer, Selu, which is confirmed by the Additional Collector, Parbhani.

6. The bone of contention is the cancellation of mutation entries as regards land survey 251/1 and land survey 251/2 situated in Selu. The facts which are culled out in the order impugned read thus:

“2. By way of impugned orders the Sub Divisional Officer Selu, has cancelled the mutation entries in suit land bearing S.No.251/1 area 0.31 hectares and survey number 251/2 area 3.80 hectares situated in town Selu and the land is vested in Mulani Masjid and taken under management of government on account of breach of conditions done by the holders of said land. The learned Sub Divisional Officer, Selu also dismissed the application filed by Dr Khwaja Inamdar and others for Virasat.

3. In present revision petition, the revision applicant had impleaded only government authorities namely Additional Collector Parbhani, Sub Divisional Officer Selu and Tahsildar Selu.

4. The third party applicants have submitted that they had filed application u/s 7 of Hyderabad Atiyat Inquiries Act 1952 before the learned Deputy Collector Atiyat Selu-cum-Sub Divisional Officer, Selu for grant of succession and allowing Virasat of

suit land for service of Mulla Masjid Selu. But while passing the order learned Deputy Collector Selu has rejected the claim of succession of the applicants on the grounds of delay by way of passing a common order dated 11th May 2015 which is impugned order in this revision petition. As far as order passed by SDO Selu is concerned he has clubbed three issues in one judgement 1) the legitimacy of the tenancy come lease deed between Nutan College Society and applicants father and his relative. 2) decision against Mutation Entries and the names recorded in 7/12 extract and attributing it as illegal owing to its nonauthoritative action. Rejection of applicants plea for succession under section 11(7) of the Atiyat Act due for want of delay condonation.

The petitioner Nutan Education Society has come before this Tribunal with revision petition against the point related to them and it has no plea in contest of second and third point decided by the SDO Selu. Since our father Mohammad Azharuddin was first signatory of lease deed between petitioner and Inamdar our involvement, in this revision petition is most essential and most wanted warranted.”

7. The M.R.T has permitted respondents 4 to 7 to be impleaded after recording a finding, and which finding is unexceptionable that they are the legal heirs of deceased Mohammed Ashrafuddin, who is the first signatory to the lease deed in favour of the petitioner-society. It is further observed by the M.R.T that the order impugned deals with

three distinct issues. A further observation is made that the fate of the proceedings shall affect the interest of Dr. Khwaja and others since it would have some bearing on the proceedings which relate to their claim to succession certificate.

8. Having perused the reasons recorded by the M.R.T, particularly paragraph 6 of the order impugned, I see no reason to interfere in writ jurisdiction. The petition is dismissed.

9. The M.R.T shall decide the revision finally within six months.

(ROHIT B. DEO, J.)