

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

WRIT PETITION NO.6843 OF 2018

Abhijit Ashokrao Mohite

..Petitioner

vs.

Suvarna @ Ulka Anil Shinde & Ors.

..Respondents

.....

Mr. R. M. Momin, Advocate for Petitioner.

Mr. P. P. Pujari, AGP for Respondent / State.

CORAM : C.V. BHADANG, J.

DATE : 15th JANUARY, 2020

PC.

. The challenge in this petition is to the order dated 19/1/2018 passed by the Additional Commissioner, Pune Division, Pune in Revision Application No.RTS/RV/SATARA/111 of 2017. By the impugned order, the Revisional Authority has confirmed the order passed by the Additional Collector Satara and the order passed by the Circle Officer thereby cancelling Mutation Entry No.1030 recorded in favour of the petitioner, in respect of the subject land i.e. Gat No.388/1 of Village Rethare Budruk, Taluka Karad, District Satara. The aforesaid entry was taken in the name of the petitioner on the basis of a registered Will dated 23/10/2011 executed by Madhukar Mohite who is the uncle of the petitioner. The said will is objected to by the daughter of Madhukar, who is the first respondent herein. The authorities have concurrently held that the will is objected to by the daughter of the testator and further petitioner has filed Probate Application No.3/2017 which is pending before the

Competent Court, and have therefore cancelled the Mutation Entry No.1030 recorded on 9/11/2015.

2. Learned counsel for the petitioner has placed reliance on the decision of this Court in the case of **Vishnu Ramchandra Undage vs. Ganpati Ramchandra Undage and others 2005(4) Mh.L.J. 1108** in order to submit that there is no requirement of obtaining of probate of a will in respect of property which is situated outside the Greater Mumbai region. It is thus submitted that there was no legal requirement of the petitioner to obtain a probate in respect of the subject will which is a registered will.

3. I have considered the circumstances and the submissions made.

4. The dispute in the present case is only pertaining to a Mutation Entry No.1030 which was recorded in the name of the petitioner on 9/11/2015 on the basis of a registered will in respect of which there is admittedly a dispute raised by the first respondent being the daughter of the testator. The decision in the case of **Vishnu Undage** (supra) arose out of an order passed in execution application arising out of a decree passed by the Competent Civil Court. It is not well settled that the mutation entries by themselves neither confer nor can take away rights as such entries are only for fiscal purpose. Thus, a mutation entry is not a evidence of title as such. Admittedly, the application for obtaining of probate filed by the petitioner is pending before the Competent Court and it is evident that the issue of mutation would ultimately govern by the order passed by the Competent Court in the probate proceedings.

Subject to this, no case for interference made out in the concurrent finding recorded by the authorities below. The petition is dismissed with no order as to costs.

C.V. BHADANG, J.