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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7735 OF 2016

Smt. Jainabai Hussein Petkar ... Petitioner
Vs.
Smt. Sahida Ahmed Mahate & Ors. ... Respondents

Mr. K. K. Jadhav, for the Petitioner.

Mr. B. K. Barve a/w Sandeep Barve, Ms. Sheetal Tambe i/b
B. V. Barve & Co., for Respondent Nos. 1, 2, 3 & 5.

CORAM : C. V. BHADANG, J.

DATE : JANUARY 2, 2020

PC :

1. The challenge in this petition is to the order dated 30th January, 2016 passed by the Additional Commissioner, Konkan Division, dismissing Appeal No. Desk / RTS / Revision / 258 / 2012 filed by the Petitioner. The principal challenge at the instance of the Petitioner is to the Mutation Entry No. 12 recorded in the year 1986 in respect of land Survey No. 46/5 (old Survey No. 67/5), 54/6 (old Survey No. 232/6) and 28/27 (old Survey No. 233/27) village Visapur, taluka Dapoli, District Ratnagiri.

2. A perusal of the order dated 15th March, 2012 passed by the Additional Collector in RTS Appeal No. 85 of 2011 shows that the Additional Collector has refused to entertain the appeal on the ground that the said mutation entry was challenged after a period of 21 years and it would not be appropriate to decide the dispute before the revenue court. The Additional Collector, Ratnagiri has further observed that the dispute appears to be of a civil nature, and therefore the parties were advised to approach the competent court. In that view of the matter, while allowing the appeal filed by Respondent Nos. 1 to 6, Mutation Entry No. 12 has been restored. It is this order, which has been confirmed by the Additional Commissioner.

3. On hearing the learning counsel appearing for the respective parties, I do not find any reason to interfere with the order, in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. It is now well settled that mutation entries, by themselves

cannot confer and / or take away rights or title. The learned counsel for the Petitioners, on instructions, states that the earlier suit filed by the Petitioner was simplicitor for injunction, which was dismissed and the appeal filed against the said dismissal was also dismissed for want of prosecution. He, however, states that as per his instructions, certain proceedings are initiated and the same are pending before the civil court. Learned counsel for Respondent Nos. 1 to 6 disputes the said aspect. In any event, it is not necessary to go into this aspect. Without expressing any opinion on the availability of any such remedy or the merits, the writ petition is dismissed, with no order as to costs.

Sd/-
[C. V. BHADANG, J.]

Vinayak Halemath