IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

933 WRIT PETITION NO.7065 OF 2021

DEVRAO RAMCHANDRA TIPARSE AND OTHERS
VERSUS
THE ADDITIONAL DIVISIONAL COMMISSIONER AND OTHERS

...
Advocate for Petitioners : Mr.Salunke Pradeep B.
AGP for Respondents-State : Mr.A.A. Jagatkar
...

CORAM : SANDEEP K. SHINDE , J.
Date :- 29th June, 2021.

P. C. :

1. This petition under Article 227 of the Constitution of India, challenges the order dated 4th March, 2021, passed by the Additional Divisional Commissioner -1, Aurangabad, in Revision No. 205 of 2016.

2. Dispute relates to, mutation entry No. 5160, of Gut No. 133. This mutation entry was certified by the Circle Officer, Tq. Tuppa, District Nanded, on dated 20th May, 2013, in view of the decree passed in Second Appeal No. 248 of 1985. Since decree was not given effect in the revenue records, in Writ Petition No. 1730 of 2012, filed by Gangadhar s/o Balaji Kolgane (respondent No. 4), the Division Bench of this Court directed the State to take a decision on representations made by the petitioners therein, in accordance with law.

3. Clause- 3 of the paragraph No. 5 of the order of the Division Bench of this Court reads as under :

> "We make it clear that we have not made any adjudication on the rights claimed by the petitioners and all questions in that behalf are expressly kept open".

4. Thus, mutation entry No. 5160 has been recorded and certified, following the directions in order passed by the Division Bench of this Court in Writ Petition No. 1730 of 2012.

5. It is the petitioners' case that Gut No. 133, is ad-measuring 15 Acres. It is claimed, that, Ramchandra Tiparse, father of petitioners No. 1, 2 and 3 had purchased land, ad-measuring 30 R, of Gut No. 133, by a registered sale deed, dated 5th June, 2006, from said Bhaurao Manik Tiparse. Thus, on the basis of the aforesaid sale deed, petitioners' had filed an appeal before the Additional Collector, Nanded and challenged the mutation entry No. 5160. The appeal was dismissed. Whereafter, the revision was preferred before the Additional Divisional Commissioner, being Revision No. 207 of 2016, was also dismissed. This order is under challenge in the instant petition.

6. Learned counsel for the petitioners' would submit that, in view of directions issued by the Division Bench of this Court, in Writ Petition No. 1730 of 2012, the revenue officer did not heard the petitioners, which was otherwise imperative in terms of paragraph No. 4 of the order of the Division Bench. On this ground, it was urged that the impugned orders being contrary to the directions, of the Division Bench of this Court, same were required to be set aside.

7. It may be observed that mutation entry No. 5160, has been recorded and certificated in view of the decree passed in Second Appeal No. 248 of 1985. Admittedly, petitioners' were neither party to the suit, where from the Second Appeal arose, nor were party to the Writ Petition. In the circumstances, impugned orders cannot be faulted with. Challenge is rejected. Yet, in consideration of the facts of the case, it may be stated that petitioners' may cause their rights acquired under the sale deed dated 05th June, 2006, be entered in Revenue Records, in accordance with law, may be in terms of provisions of Section 149 of the M.L.R. Code and the Rules of 1971, concerning record of rights and register.

8. In the circumstances, if an application is made by the petitioners seeking to record their rights in Revenue Record on the basis of sale deed dated 05th June, 2006, the application shall be dealt with by the Talathi or a Competent Revenue Officer, in accordance with law, without being influenced by the order passed by this Court and preferably, within three months from the date of presenting of such application.

9. With these observations, the petition is disposed of.

(SANDEEP K. SHINDE)
JUDGE

mahajansb/