

Bhogale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3193 OF 2021**

Bhika Babu Gavari

since deceased through L.Rs.

1A) Sandeep Bhika Gavari & ors.

.. Petitioners

vs.

Balkrishna Vishnu Gavari & ors.

.. Respondents

Mr. Avinash Bhaskar Avhad a/w Mr. Mahesh Rawool for the
Petitioners.

CORAM : M.S.KARNIK, J.**DATE : JULY 22, 2021****(THROUGH V.C.)****P.C.**

Heard learned counsel for the Petitioners.

2. It is the contention of learned counsel for the Petitioners that they belong to the Gavari family and their names were entered into the record of rights as far back in the year 2009. The names of the predecessor of the Petitioners, according to him, was entered in the record of rights much prior to 1942. Vide mutation entry No.222 the name of the Petitioner's predecessor was recorded in the record of rights prior to 1942. Some time in the year 1942, after the death of Babu Bhiva Gavari (the predecessors in title of the Petitioner), the mutation entry was effected which did not mention the name of Petitioner's predecessor.

3. All the authorities concurrently held that almost after a period of 80 years, the Petitioners approached the Tahsildar, Khed for recording their names in the record of rights. Accordingly, vide the mutation entry No.1425 the Petitioner's name came to be recorded. The Respondents challenged the said mutation entry contending that there is a delay of 80 years in making the application. All the authorities are concurrently of the opinion that this mutation entry No.1425 deserves to be set aside. The Hon'ble Minister has held that the claim to the ownership rights in respect of the property are to be adjudicated before the competent Civil Court. Considering the settled law that the mutation entries do not decide the right, title and interest of the parties in the suit property and made only for fiscal purposes, I see no reason to interfere with the impugned orders. It is always open for the Petitioners to approach the competent Civil Court to get their right, title and interest in the suit property established before the competent Civil Court.

4. It is the apprehension of learned counsel for the Petitioners that on the basis of the impugned order, the Respondents may create third party interest in the suit property thereby depriving the Petitioners of their rightful claim. If that is so, it is always open for the Petitioners to initiate appropriate proceedings before the competent Civil Court, when the same can be considered on its own merits and in accordance with law.

5. Subject to what is observed, I see no reason to interfere with the impugned order. The Writ Petition is rejected.

(M.S.KARNIK, J.)

PRADNYA
MAKARAND
BHOGALE

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