

Bhogale

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

WRIT PETITION NO. 3629 OF 2020

Nazir Gajimiyan Fakir

.. Petitioner

Vs.

Sunita Vishwas Patil and ors.

.. Respondents

Mr. Vivek Salunkhe a/w Mr. Vivek Punjabi and Mr. Ajinkya Jaibhave
for the Petitioner.

Mr. Sanjeev P. Kadam I/b. Mr. Jayendra Khairnar for Respondent.

Mrs. M.S. Bane, AGP for the State.

CORAM : M. S. KARNIK, J.

DATE : 3 FEBRUARY, 2021

P.C. :

Heard learned counsel for the parties.

2. The Petitioner by this Petition challenges an order dated 02.01.2014 passed by the Hon'ble Minister (Revenue) allowing the application made by the Respondent Nos. 1 and 2 whereby the mutation entry in the name of "Devasthan Inam Varg-3" of the property is deleted.

3. Learned counsel Mr. Salunkhe appearing on behalf of the Petitioner submits that the order passed by the Hon'ble Minister (Revenue) is without jurisdiction. In his submission the Hon'ble Minister (Revenue) could not have entertained the application at all.

4. Learned counsel for the Respondents on the other hand submits that the Petitioner has executed a valid sale deed in Respondents favour in respect of the subject properties of which the claim is made by the Petitioner and therefore even otherwise the Respondent Nos.1 and 2 have now perfected their right, title and interest in the said property. In his submission the order passed by the Hon'ble Minister (Revenue) calls for no interference in view of the sale deed.

5. Learned counsel for the Petitioner says that signature of the Petitioner on the sale deed has been obtained fraudulently. According to him the land was given to the Respondent Nos.1 and 2 only for the purpose of cultivation but by practicing fraud the document made is Sale Deed.

6. Heard learned counsel for the parties. Considering that admittedly there is a sale deed in favour of the Respondent Nos.1

and 2 executed by the Petitioner, it is for the Petitioner to challenge the sale deed by appropriate remedy including civil suit and obtain appropriate declaration if according to him the said document is fraudulent. So long as the sale deed is in existence, the rights of the parties would obviously be governed by the said registered sale deed. In the event proceedings are filed challenging the sale deed, the adjudication thereof would govern the Revenue entries and the mutation entry will have to be effected on the basis of said adjudication.

7. I see no reason to interfere with the impugned order in the light of what is stated herein before. Even the learned counsel for the Respondents on instructions submits that the outcome of the suit will govern the rights of the parties including the relevant entries in the revenue record. The impugned order is subject to the outcome of the suit if filed.

8. Keeping all contentions open including the liberty to the Petitioner to challenge the sale deed by resorting to appropriate proceedings including filing a Civil Suit, the Writ Petition is disposed of.

(M.S.KARNIK, J.)