

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2420 OF 2022

**VASANT BHAURAO KHODVE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr. Sudhakar T. Mahajan
AGP for Respondent Nos.1 to 3/State: Mr. P. N. Kutti

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 4th April, 2022

ORDER :

1. The petitioner is aggrieved by the order/letter dated 04/01/2022 passed by respondent no.2 / Collector, Beed.

2. The petitioner filed Regular Civil Suit No.216/2013 for partition and separate possession of the ancestral property against his brothers. The suit was amicably settled between the parties and on 01/08/2021, compromise decree was passed by the learned Joint Civil Judge, Junior Division, Ambajogai. On the basis of compromise decree, the petitioner applied for mutation of his name to the property, which had fallen to his share. The Tahsildar, Ambajogai refused to effect the mutation entries on the ground that compromise decree is not registered.

3. The petitioner approached the Collector, Beed. The Collector issued a letter dated 30/12/2021 by relying upon notification of the Revenue and Forest Department dated 14/06/2021, decision of the Apex Court in Civil Appeal No.2336/2021 and letter of the Principal District Judge, Beed dated 27/11/2021, asked the Tahsildar not to insist for the registration of the compromise decree and not to impose stamp duty on the same and asked him to take necessary action for taking mutation entries.

4. Again by impugned communication dated 04/01/2022, the Collector canceled the earlier letter dated 30/12/2021. Hence, the present petition.

5. Heard the learned Advocate for the petitioner and learned Assistant Government Pleader for respondent nos.1 to 3/State.

6. The record indicates that the Hon'ble Apex Court in Civil Appeal No.2336/2021 held that a compromise decree does not require registration and the High Court was not right in holding that the said decree requires compulsory registration. It is also held that there was no new right being created for the first time when the parties entered into a compromise before the Civil Court but rather an

pre-existing right in the property was recognized by way of settlement in the court proceedings.

7. In **Arvind S/o Yeshwantrao Deshpande Vs. State of Maharashtra** reported in **2003 (3) Mh.L.J.**, Co-ordinate bench has held that property received by coparcener in the partition of joint hindu family is not a transfer and is not necessary to register the deed of transfer.

8. Note-68 in the notification issued by Revenue and Forest Department, Mantralaya, Mumbai on 14/06/2021 read thus;

"Note 68 – No registration fees shall be chargeable on filing of any copies of court decrees or orders or any type of document or instrument specified in section 89A of the said Act when received from the court or the officers specified in the said section 89A."

9. In the light of the above judgments and note-68, it is clear that the Collector, Beed has erred in issuing the impugned communication dated 04/01/2022. When a communication dated 30/12/2022 was issued, it was on the basis of notification dated 14/6/2021, decision of the Apex Court in Civil Appeal No.2336/2021 as well as the letter of the District Judge dated 27/11/2011. However while issuing the impugned letter dated 04/01/2022, the only reason given his

guidance is sought from the Director of registration and Controller of stamp.

10. Since it is a settled legal position that the compromise decree does not require registration, the impugned communication dated 04/01/2022 cannot sustain and the same is hereby quashed and set aside. The respondent nos.2 and 3 shall process the request of the petitioner for certifying the necessary revenue entries expeditiously.

11. Writ Petition is disposed of accordingly.

[NITIN B. SURYAWANSHI, J.]

Sameer