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

932 WRIT PETITION NO.11153 OF 2022

ANILKUMAR AMARCHAND DUNGERWAL AND OTHERS
VERSUS
RAVINDRA TRIMBAK DAGDE
...
Advocate for Petitioners : Mr. Bora Satyajit S.
Advocate for Respondents : Mr. Kulkarni Suvidh S.
...
CORAM : SANDEEP V. MARNE, J.
Dated: November 25, 2022
...

**PER COURT :-**

1. By this petition, petitioners assails the orders dated 16.7.2022 passed by the Civil Judge J.D. Shirur Kasar thereby rejecting petitioners application at exhibit 44 for summoning the Talathi with the relevant record. Application at exh.46 seeking review of that order is also turned down by order dated 25.8.2022.

2. The reasons cited by the trial court for rejecting the application is that 7/12 extract being a public document can always be produced before the Court and that there is no necessity of examining the Talathi as a witness. In his application for review, petitioner elaborately contended that he desires to prove that the

concerned entries in the mutation register are made by pencil (not by pen) and were subsequently deleted. This is sought to be done to prove that the ancestor of non applicant was never lawful owner of the suit properties.

3. Learned counsel appearing for the respondent placed his reliance on a judgment of the Apex Court in **Jitendra Singh Vs. State of Madhya Pradesh and others reported in 2021 SCC online SC 802** in support of his contentions that mutation entries cannot decide the issue of ownership. Therefore, whether relevant entries are made in pencil or pen would be irrelevant for deciding the real controversy between the parties.

4. Mere production of 7/12 extract would not throw any light on the above contentions sought to be raised by petitioner. Perusal of the original register and deposition of Talathi in that regard would be required. In my view, therefore, trial court out to have allowed the applications filed by petitioners. Utility of revenue records for deciding issue of ownership is something

which can be gone into at the time of final decision in the suit. But the petitioner cannot be denied an opportunity to lead evidence about the nature of these revenue entries. Petition accordingly succeeds. The orders dated 16.7.2022 and 25.8.2022 are set aside and application filed by petitioners at exh.44 is allowed in terms of prayers made therein. No costs.

**( SANDEEP V. MARNE, J. )**

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aaa/-