IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7843 OF 2004

Rajiv Lalit Sangtani and Ors. ...Petitioners
Vs.
State of Maharashtra and Ors. ...Respondents

Mr. Anil V. Anturkar, Senior Advocate i/b Mr. Sugandh B. Deshmukh for the Petitioners.
Mr. Surel Shah i/b Mr. Shailesh D. Chavan for Respondent Nos.4 and 5.
Mr. A. I. Patel, Addl. G.P. a/w. Ms. K. N. Solunke, AGP for the Respondent-State.

CORAM : NITIN JAMDAR &
SHARMILA U. DESHMUKH, JJ.

DATED : 23 SEPTEMBER 2022.

P. C. :

Heard the learned counsel for the parties.

2. By this Petition the Petitioners have sought the following prayers:

"[A] That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction or order under Article 226 of the

> *Constitution of India, 1950, quashing and setting aside the order by which the names of the Respondent No.4 and 5 have been shown in respect of the Suit property in the Revenue Records and be pleased to quash and set aside the same, as well as consequential Mutation entry No.512 and 513."*

3. The Petitioners have filed this Petition claiming that the Petitioners are the owners of the property. The property originally belonged to one Kondiba Tukaram Doiphode which was sold by Kondiba Doiphode on 29 July 1982 to one Kishor Arjun Mansukhani and on 21 February 1992, the Petitioner's mother purchased the property from Kishor Mansukhani. The grievance of the Petitioners is that the Petitioners were not given any notice and by Mutation Entry Nos.512 and 513 names of Respondent Nos.4 and 5 were entered in to the revenue records. According to the Petitioners, this action of changing the revenue records without any notice to the Petitioners is bad in law.

4. Ordinarily, writ Court would not interfere in the changes in the revenue record as they are for fiscal purposes and do not conclude any substantive right, however, the Division Bench of this Court on 6 December 2018, while issuing notice has observed that this was a fit case to be considered under the writ jurisdiction in view of the peculiar facts and circumstances noted therein. There are allegations made by the Petitioner against Respondent Nos. 4 and 5. By order

dated 6 December 2018, the Division Bench had directed the Divisional Commissioner, Pune to look into the manner in which enquiry was carried out. Report is submitted by the Divisional Commissioner wherein Divisional Commissioner *inter alia* has confirmed that there was no hearing given to the Petitioner and thus hearing needs to be given so that this illegality can be removed. The contention of the Petitioner that the impugned changes were carried out without notice to the Petitioner has gone uncontroverted.

5. In view of the stand taken by the learned counsel for Respondent Nos. 4 and 5, on instructions that fresh hearing can be ordered, it is not necessary to elaborate and comment on the allegations.

6. In the light of this position, the prayer of the Petitioner made in the Petition will have to be granted. We also do not find any application made by the Respondent No.4 and 5 to enter their names in the record.

7. Accordingly, the Petition is allowed in terms of prayer clause (A).

8. If the Respondent Nos.4 and 5 are desirous of entering their names in the revenue records, it is always open to them like any

other to submit an Application as per law, of which notice will have to be given to the Petitioner and then appropriate decision can be taken by the Respondent-Authority thereupon.

9. The learned counsel for Respondent Nos.4 and 5 states that for a limited duration the Petitioners be restrained from creating third party rights. This, according to us, is a matter of substantive rights between the parties for which the parties are free to adopt appropriate proceedings.

(SHARMILA U. DESHMUKH, J.) (NITIN JAMDAR, J.)