

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

CIVIL WRIT PETITION NO.4285 OF 2022

Ramesh Tukaram Shirose

....Petitioner

Versus

The Village Panchayat of Kamba & ors.

....Respondents

Mr. Rajesh S. Datar i/b. Mr.Dushyant S. Pagare a/w Ms. Druti Datar for the Petitioner.

Mr. S. R. Ganbavale for the Respondent No.1.

**CORAM : PRASANNA B. VARALE &
SHRIKANT D. KULKARNI, JJ.**

DATE : 7th JULY, 2022.

P.C. :

1. The Petition is filed in this Court at the instance of the Petitioner with principal prayer clause (a) which reads thus;

“(a) that this Hon’ble Court be pleased to issue a writ of mandamus or a Writ in the nature of mandamus or any other Writ, Order or Direction under Article 226 of the Constitution of India thereby directing Respondent no.1 to amend the Assessment List and record the name of the Petitioner in the assessment register maintained by Respondent no.1 in respect of in respect of House No.489 (New House No.20), situated at village Kamba, Taluka Kalyan, District Thane (Para 2) and issue bills/tax receipts in the names of the Petitioner.”

2. Learned counsel for the Petitioner submits before this Court that certain property situated in Village Kamba, Taluka Kalyan, District Thane, is purchased by the Petitioner from Respondent No.2 through a registered

sale deed. The copy of the sale deed is placed on record at page 31. In pursuant to the said sale deed, the Petitioner approached Respondent No.1-the Village Panchayat on 28th December, 2021. It is submitted that the said property belongs to the Petitioner and the necessary entry in the Panchayat's record be effected. It seems that subsequently the Petitioner again submitted the Application on 4th February, 2022 under the caption “ अंतिम स्मरण पत्र ” (final reminder). A reference is made to the said sale deed. Then, it is interesting to note that in the very application, a reference is also made to a counter Application submitted by Respondent No.2. The Petitioner was fair enough to place on record a copy of the Application submitted by Respondent No.2 to the Panchayat and the same is annexed as Exhibit 'C' at page 46.

3. Considering this fact, we are of the opinion that there are rival claims over the property and the ownership of the property itself is in dispute. Then, there is third angle to this matter, revealed on hearing Mr. S. R. Ganbavale, learned counsel for Respondent No.1. Learned counsel on instructions submitted that the said property is a part of Gavthan and the property being a part of Gavthan ought not have been subjected to alienation, and if such alienation of property is carried out, the alienation itself would not be sustainable.

4. Now, from all above referred facts, the only acceptable

conclusion which we can draw is that the Petition revolves around the disputed question of facts. On backdrop of these facts, we are unable to entertain the Petition by exercising the power of this Court under Article 226 of the Constitution of India. At this stage, learned counsel appearing for the Petitioner submits that as no order is passed on the Application of the Petitioner, let Respondent No.1 to pass some orders on the Application. In counter, Respondent No.1 submits that as the Panchayat is disputing the ownership of the property, it may not pass order on the Application.

5. Learned counsel for Respondent No.1 submitted that the Application submitted at the instance of Respondent No.2 was rejected in the meeting of the Panchayat and the copy of the proceedings of the said meeting is also placed on record as Exhibit 'D' at page 47.

6. In view of the above referred facts, we reiterate that we are not inclined to entertain the Petition. Accordingly, the Petition is dismissed. We further make it clear that the Petitioner may avail other remedies as available under the law, if so advised.

7. The Petitioner if availed any appropriate remedies before the competent forum and submits necessary proceedings, needless to state that the proceedings be decided on its own merits.

(SHRIKANT D. KULKARNI, J.)

(PRASANNA B. VARALE, J.)