

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

**WRIT PETITION NO. 3283 OF 2021**

Isharsingh Sanmukh Singh & Anr

....PETITIONERS

V/S

M/s Thio Pharma Mumbai Through Its Partner

Mr. Kailash J. Dadhiya & Anr

....RESPONDENTS

Mr. Sandesh D. Patil i/b. Adv. Divya Pawar Patil for the Petitioners.

Mr. S. B. Shetye i/b. Adv. M. R. Bohra a/w. Adv. Sarika Shetye for  
respondent no. 1

Mrs. V. S. Nimbalkar AGP for Respondent no. 2

**CORAM : NITIN W. SAMBRE, J.**

**DATED : 12<sup>th</sup> AUGUST, 2022**

**P.C.:**

1. Heard.
2. Leave to amend. Amendment to be carried out forthwith.
3. The challenge in the petition is to the order dated 12/02/2021 passed by the State Government in revision so also the order of the Additional Commissioner dated 26/03/2018 passed in appeal under the provision of Maharashtra Land Revenue Code.
4. The petitioners based on the power of attorney claim to have purchased the suit property vide registered sale deed dated 26/07/2010. The claim for mutation was objected by the respondents, however, overruling such objection the mutation entry was effected in favour of petitioners vide mutation entry no. 2074.

The order of the Revenue Authorities was confirmed by the SDO on 31/05/2013.

5. It appears that the respondents having notice that the sale deed is executed based on the illegal power of attorney, initiated suit for declaration and injunction being Special Civil Suit No. 241 of 2014. In the said suit declaration of ownership and injunction is sought against the petitioners, which I am informed is pending adjudication and there does not operate any temporary injunction.

6. It appears that vide orders impugned, the aforesaid mutation entry is upset by the Additional Commissioner, confirmed by the State Government on the ground that the suit proceedings are pending at the behest of the respondents.

7. The contentions of Mr. Patil learned counsel appearing for the petitioners that both the orders which are impugned herein goes contrary to the settled legal principles that the respondents can get their rights claiming suit property adjudicated in the Civil Court and the petitioners being holder of title by virtue of registered deed is entitled for the mutation entry.

8. Mr. Shetye, counsel for the respondents would support the order impugned.

9. He would invite my attention to the observations made by the

Additional Commissioner in the impugned orders which speaks of certain objectionable events as could be noticed from the power of attorney, the existence of the partnership firm etc.

10. He would further urge that since the suit is pending, subject to outcome of the said same and as the mutation entry is already cancelled, the parties can be directed to maintain status quo as on today.

11. I have appreciated the aforesaid submissions.

12. The fact remains that the suit of the respondents/plaintiffs being Special Civil Suit No. 241 of 2014 is pending adjudication wherein the respondents have sought relief of declaration of ownership, cancellation of conveyance in favour of the petitioners as also injunction.

13. In the said suit, in response to the Court's query, Mr. Shetye counsel appearing for the respondents informs that the prayer for temporary injunction is still under consideration.

14. Be that as it may, the said prayer can be decided by the Civil Court on its own merits without being influenced by the findings recorded in the present order.

15. The fact remains that there exists registered conveyance in favour of the petitioners whereby the title stood vested in the

petitioners. Once by registered conveyance the title stood vested in the petitioners, considering its evidential value in the backdrop of provisions of the Evidence Act, the sub-divisional officer was justified in dismissing the claim of the respondents. Rather both the orders impugned are passed without considering the aforesaid aspect of the matter.

16. The fact remains that the mutation entries, if any, are always subject to outcome of the civil proceedings and such civil proceedings are pending for consideration at the behest of the respondents herein.

17. That being so, the impugned orders in the petition are hereby quashed and set aside. As a sequel, the order of the sub-divisional officer delivered on 31/05/2013 stood restored to the file.

18. The parties hereto are bound by the outcome of the Civil Suit. As such the order of sub-divisional officer shall subject to outcome of the civil proceedings.

19. The petition stands allowed in the aforesaid terms.

**(NITIN W. SAMBRE, J.)**