

BDP-SPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6349 OF 2022**

Shri Narayan Antu Gujaré Petitioner.
V/s
The State of Maharashtra & Ors. Respondents

**WITH
WRIT PETITION NO. 6364 OF 2022**

Smt Chaturabai Narayan Gujaré Petitioner.
V/s
The State of Maharashtra and Ors. Respondents.

Mr. Sandeep Mishra i/b Mr. Ganesh Jha for the Petitioner.
Mr. S.D. Rayrikar, AGP for Respondent Nos. 1 to 5.
Mr. Shreesh Oak a/w Mr. Vinayak Palande a/w Rushikesh Kharat i/b
S.C. Legal for Respondent No.2.
Mr. Jaydeep Deo for the respondent no. 6 in both the writ petitions.

CORAM: NITIN W. SAMBRE, J.

DATE: AUGUST 20, 2022

P.C.:-

1] As the issues involved in both the aforesaid Petitions are same,
by consent they are tagged and heard together.

2] Challenge in the Petition is to the order dated 15/03/2022
passed in Revision No. RTS-27 A 21/PK.303/J-4A. By the order

Corrected as per order dated 15/11/2022.

impugned State Government (Minister for Revenue) has allowed the Revisions preferred under Section 257 of the Maharashtra Land Revenue Code (For short “MLRC”) preferred by the Respondents and set aside the order passed by the Divisional Commissioner, thereby order of mutating the suit property in the name of the Respondents was restored as was initially ordered by the Deputy Collector.

3] For the convenience, facts in Writ Petition No.6349 are taken into consideration.

4] Deceased Narayan Antu Gujare was an owner of agricultural land bearing Survey No.112, Hissa No.6/1A, area admeasuring 2 Hectares 49-R with pot-kharaba R-53 situated at Village Savrali, Taluka Talsari, District Palghar. (hereinafter shall be referred to as “the suit property”). Said Narayan vide Conveyance Deed dated 25/07/1986 conveyed the property in favour of Respondent/purchaser. Pursuant to the said Deed of Conveyance dated 25/7/1986 in favour of Respondent/purchaser, the temporary Mutation Entry No.703 was rejected as the said Respondent has failed

to demonstrate his status as an agriculturist. Similar attempt vide temporary Mutation Entry No. 781 was also rejected in 1990. Respondent/purchaser thereafter produced evidence of he being an agriculturist which was in relation to his holding in the State of Gujarat before the Tahasildar. However, vide order dated 12/8/2014 Tahasildar rejected the claim by rejecting Mutation Entry No.1204. Being aggrieved, Respondent/purchaser approached Sub-Divisional Officer in appeal under Section 247 of the MLRC. The Sub-Divisional Officer, Dahanu vide order dated 27/10/2015 by relying on 7 X 12 Extract produced by the Respondent/purchaser granted mutation, which was confirmed by the Deputy Collector, Palghar vide order dated 06/09-2017. The Revision came to be preferred before Divisional Commissioner, Konkan Division by the Petitioner, who has allowed the same in favour of the Petitioner vide order dated 03/11/2018. The said order dated 03/11/2018 was corrected pursuant to the prayer of the Petitioner. The Respondent/purchaser feeling aggrieved approached the State Government under Section 257 of the MLRC, thereby invoking revisional jurisdiction. State Government vide order impugned has allowed the Revision and set

aside the order of the Divisional Commissioner, Konkan Division.

5] Contentions of Mr. Mishra, learned Counsel appearing on behalf of the respective Petitioner are, State Government has failed to consider evidentiary value of 7 X 12 Extract produced by the Respondent/purchaser so as to establish that he is an agriculturist in the State of Gujarat. According to him, said 7 X 12 Extract is in relation to the land laws prevalent in the State of Gujarat and cannot be considered for determination of the claim in favour of the Respondent/purchaser so as to infer that he is an agriculturist by profession. So as to substantiate his contentions, he would invite my attention to the order passed by the Divisional Commissioner, Konkan Division, Mumbai. He would further urge that once the suit of the Respondent/purchaser seeking declaration that he is an owner of the suit property is pending adjudication, the State Government ought not to have passed the order impugned. As such, he would urge that the order impugned is liable to be quashed and set aside and parties be relegated to civil proceedings which are initiated by the Respondent/purchaser herein.

6] Counsel for the Respondent/Purchaser so also learned AGP appearing on behalf of the State would support the order impugned.

7] It is claimed that State Government was sensitive to the fact that an 'agriculturist' once is recognized with such status in any of the States, unless there is an express provision debarring or putting an embargo on such status as an agriculturist provided in the local laws, such status continues throughout the territory of India. As such, according to them, Mutation Entry based on the Conveyance Deed is quite justified. As such, dismissal of the Petition is sought.

8] I have appreciated the said submissions.

9] Petitioner has disputed execution of Sale Deed/Conveyance Deed dated 25/07/1986. But for disputing the said registered Sale Deed, no steps are taken by the Petitioner for questioning the said Deed before the competent Civil Court. As such, unless there exists a declaration from the competent Civil Court or injunction in favour of

the Petitioner, the Deed exists, thereby conferring title in relation to the suit property in favour of the Respondent/purchaser. Once such Deed of Conveyance which is a registered document exists in favour of the Respondent/purchaser, it is not open for Revenue Authorities to disbelieve the same for the purpose of carrying out Mutation Entry.

10] Mutation Entry does not grant any title but is only for fiscal purpose i.e. for payment of revenue. In this backdrop, the order of the State Government, in my opinion, is quite justified, particularly when the same is based not only on registered Sale Deed dated 25/7/1986 but also based on status of the Respondent/purchaser as an agriculturist.

11] Rights of the respective parties are already *subjudice* in pending civil suit. As such, Mutation Entry effected in favour of the Respondent/purchaser is also subject to the outcome of the said suit.

12] Keeping the right of the Petitioner intact in the suit initiated by the Respondent/purchaser on merit, I hardly see any reason which

warrants interference in the order impugned as it shall be open for the Petitioner in case if he succeeds to seek upsetting of Mutation Entry ordered in favour of the Respondent/purchaser.

13] With the aforesaid observations, both the above Petitions stand disposed of.

(NITIN W. SAMBRE, J.)