

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 667 OF 2021**

Sangita Sanjay Ahire

...Petitioner

Versus

Registrar of Stamp, Nashik & Anr

...Respondents

Mr Girish Agrawal, for the Petitioner.

Mr RP Kadam, AGP, for Respondent No. 1-State.

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.**

DATED: 8th March 2022

PC:-

1. Rule. There is an Affidavit in Reply of Respondents Nos. 1 and 2. We take up the Petition forthwith for hearing and final disposal.

2. The Petitioner seeks, *first*, that her application dated 30th October 2019 before the Registrar/Collector of Stamps for restoration of her sale deed dated 19th September 2014 be allowed. *Second*, she asks that the Court do direct the Registrar/Collector of Stamps to restore to record that sale deed.

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3. The dispute pertains to Gat No. 298 (new Gat No. 2386) at village Ankai, Taluka Yeola, District Nashik. It admeasures about 3H 67R. This land was owned by one Soma Laxman Ahire. Soma Ahire executed an agreement of sale dated 19th September 1975 in favour of one Namdev. Soma Ahire died. His legal heirs executed a registered sale deed dated 19th September 2014 under registration No. 3159 of 2014 in respect of a part of this property of two hectares from the total area of 3H 67R in favour of the Petitioner. The Petitioner paid the Nazrana, obtained permissions and completed all formalities. Namdev's legal heirs objected to mutation entries being recorded or effected in favour of the Petitioner. These heirs of Namdev filed a Special Civil Suit No. 2 of 2015 in the Court of Civil Judge Senior Division, Niphad on 1st January 2015. They sought a declaration of ownership and, specifically, a cancellation of the sale deed dated 19th September 2014.

4. On 5th April 2016, the Trial Court partly decreed Namdev's legal heirs' suit. It ordered the sale deed of 19th September 2014 to be cancelled. It also directed that the mutation entries in favour of the Petitioner were to be cancelled.

5. The Petitioner filed a statutory First Appeal, being a Regular Civil Appeal No. 70 of 2016 to the District Court, Niphad on 6th June 2016. By its order and judgment dated 29th January 2018, the First Appellate Court allowed the Appeal entirely with costs throughout. It set aside the Trial Court's judgment and decree dated 5th April 2016. It dismissed the Special Civil Suit No. 2 of 2015 filed by Namdev's legal heirs. Evidently, the Trial Court decreed then merged in the First Appellate Order.

6. Namdev's heirs filed a Second Appeal No. 110 of 2018 to this Court. That Appeal failed and was dismissed by an order dated 27th August 2019.

7. By this time, therefore, the Petitioner had lost in the Trial Court, succeeded entirely in the First Appellate Court and also in the Second Appeal. The sum and substance of all this was that the sale deed was no longer required to be cancelled. It had to be restored. The challenge to the sale deed by Namdev's heirs had failed on account of the First Appellate Order and the dismissal of their Second Appeal. Indeed, the First Appellate Order dismissed the suit itself.

8. The Petitioner filed an application on 30th October 2019 to the Registrar of Stamps for a restoration of a sale deed and a reversal of mutation entry No. 1619. The Registrar of Stamps informed the Petitioner by writing a 24th November 2020 that since there was no specific directions for restoration of the sale deed, the Petitioner had to approach the First Appellate Court. The Petitioner tried to explain to the Registrar of Stamps the correct position in law, but to no avail. This is the challenge.

9. There is simply no answer to this Petition. We cannot help it if the Registrar of Stamps does not understand the simplest thing about a reversal of Trial Court decree. Once an order of cancellation of sale deed has been set aside in Appeal, it automatically means that the sale deed is to be restored, whether or not the First Appellate Court makes a specific direction. It is not for the Registrar of

Stamps to refuse to act by in effect demanding that courts of law should word their orders in a particular manner. It is abundantly clear that the result of the First Appellate Order was that the Suit by Namdev's heirs was in fact dismissed, and dismissed with costs. There was no surviving challenge to the sale deeds in the Petitioner's favour.

10. Accordingly we make Rule absolute in terms of prayer clauses (b) and (c) which read thus:

“b) Hon'ble Court be pleased to allow the application dated 30/10/2019 preferred by the Petitioner before the Registrar of Stamp for restoration of her Sale Deed dt. 19/09/2014 bearing No. 3159/14. **(Exhibit -E)**.

c) Hon'ble Court be pleased to direct the Registrar of Stamps to restore the Sale Deed dt. 19/09/2014 bearing No. 3159/14.”

11. The Petition is disposed of in these terms. There will be no order as to costs.

(Madhav J. Jamdar, J)

(G. S. Patel, J)