

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 2600 OF 2019

Mrs. Sunita w/o Gulabsing Thakur

Vs.

The State of Maharashtra, Thru. Divisional Commissioner, Nagpur and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms. Shilpa G. Barbate, Advocate for petitioner.
Mr. D.P. Thakare, Addl. GP for respondent Nos.1 to 3/State.
Mr. S.s. Bagga, Advocate for respondent Nos.4 & 5.

CORAM : MANISH PITALE J.

DATE : 29.03.2022

By this writ petition, the petitioner has challenged the order dated 22.06.2018 passed by the Commissioner, whereby an appeal filed by respondent Nos.4 & 5 was allowed and an order passed by the Sub-Divisional Officer, allowing an application for correction of map filed by the petitioner was set aside.

2. It is the case of the petitioner that she has purchased 2.27 HR of land from her vendor in Gat No.12 and that the map was required to be corrected in that context. The petitioner does not dispute that

the respondent Nos.4 and 5 are owners of the land in Gat No.14 admeasuring 1.94 HR. The said application of the petitioner was allowed by the Sub-Divisional Officer, by order dated 15.06.2015. The respondent Nos.4 and 5 were aggrieved by the said order and they approached the Commissioner. By the impugned order the appeal was allowed and the order of the Sub-Divisional Officer (SDO) was set aside.

3. Ms.Shilpa Barbate, learned counsel appearing for the petitioner submitted that the Commissioner erred in setting aside the order of the SDO. It was submitted that the petitioner does not dispute and she is not concerned with land admeasuring 1.94 HR belonging to the respondent Nos.4 & 5, but she is very much concerned with the land admeasuring 2.27 HR purchased by her by way of a registered sale-deed.

4. It is contended on behalf of the petitioner that the vendor of the petitioner had purchased 0.20 HR land on the Northern portion of land admeasuring 2.07 HR, in the year 1970 and therefore, the vendor was owner of the 2.27 HR land. It is this piece of land which was sold to the

petitioner by registered sale-deed dated 23.07.2004. According to the petitioner, the Commissioner failed to appreciate this aspect of the matter and erroneously proceeded on the basis that there was allegedly some overwriting in the records which could not enure to the benefit of the petitioner.

5. Mr. Bagga, learned counsel appearing for respondent Nos.4 & 5 submitted that as long as the petitioner is not staking any claim on 1.94 HR land belonging to them in Gat No.14, they would have nothing to say in the matter.

6. Mr. D.P. Thakare, learned Additional Government Pleader for respondent Nos.1 to 3 and he has defended the order was passed by the Commissioner.

7. In the present case, neither the SDO nor the Commissioner have discussed the aspect highlighted on behalf of the petitioner before this Court that the vendor of the petitioner had purchased 0.20 HR land on the northern side by way of registered sale-deed dated 21.12.1970. Adding the said area of land to 2.07 HR land already belonging to the vendor made the entire piece of land covering

an area of 2.27 HR. It is on this basis that the vendor of the petitioner executed registered sale-deed in her favour on 23.07.2004. This aspect of the matter is neither referred to nor appreciated by both the authorities below while considering the application for correction of map filed on behalf of the petitioner.

8. The order of the SDO is extremely cryptic with no discussion at all, while allowing the application of the petitioner. The impugned order of the Commissioner on the other hand does discuss in detail about the claim made by the petitioner, yet there is no reference to the aforesaid aspect of matter. Instead, the Commissioner has proceeded on the basis that there was some overwriting in the record, which could not enure to the benefit of the petitioner.

9. This Court has perused the registered Sale Deed pertaining to 0.20 HR land executed in favour of the vendor of the petitioner on 21.12.1970. The said document ought to have been taken into consideration by the authorities below, before pronouncing on the aspect as to whether the application for correction of map filed by the petitioner could be allowed. Since there is no discussion on this aspect of the matter, it would be

appropriate that the matter is sent back to the SDO for consideration afresh, particularly on the aforesaid contention raised on behalf of the petitioner on the basis of registered Sale Deed dated 21.12.1970 executed in favour of the vendor of the petitioner for land admeasuring 0.20 HR.

10. In view of the above, both the orders passed by the SDO and the Commissioner are found to be unsustainable. Accordingly the impugned order is set aside and instead of restoring the order passed by the SDO, it is directed that the SDO shall now consider the application filed by the petitioner afresh, taking into consideration the observation made by this Court in the present order.

11. It is expected that the SDO shall take into account the specific contention raised on behalf of the petitioner pertaining to the aspect of adding 0.20 HR land to 2.07 HR land in Gat No.12 on the basis of the documents produced by the petitioner and then to consider whether the application for correction of map can be granted.

12. It is made clear that this Court has not made any observations on the merits of the

contentions raised on behalf of the petitioner on that aspect of the matter.

13. Accordingly, the writ petition is disposed of.

JUDGE

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