

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 6973 OF 2018**

Ajinkya Dinkar Bargaje  
Through Guardian,  
Gopalrao Annasaheb Bargaje  
and another

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

Mr. Vikram S. Undre, Advocate for the Petitioners.  
Mr. K. B. Jadhavar, AGP for Respondent Nos. 1 and 2.  
Mr. S. A. Deshmukh, Advocate for Respondent No. 3.  
Mr. S. S. Thombre, Advocate for Respondent No. 4.

**CORAM : KISHORE C. SANT, J.**

**DATED : 16<sup>th</sup> JUNE, 2023.**

**P. C. :-**

. Heard learned advocates for the parties. Taken up for final disposal by consent of the parties.

2. The challenge in the petition is to an order dated 04.04.2018 passed by the Hon'ble Minister of Sate (Revenue), State of Maharashtra thereby allowing the revision filed by respondent No. 4. The Hon'ble Minister has set aside the order passed by the Additional Commissioner in Appeal No. ROR/REV/240/2013 dated 04.08.2015 whereby the order passed by the Additional Collector, Osmanabad and the order

passed by the S.D.O., Bhoom came to be quashed. The matter was remanded for fresh enquiry. The Hon'ble Minister in the order itself has made it clear that the mutation entry taken on the basis of sale deed dated 24.11.2008 executed by respondent No. 3 in favour of respondent No. 4 is rightly taken. It is made clear that, the said mutation entry shall be subject to outcome of the proceedings in the Civil Court.

3. Learned advocate for the petitioners submits that, they are the sons of respondent No. 3. The respondent No. 3 had purchased two lands from Survey No. 577 admeasuring 1H 21R and from Survey No. 579 admeasuring 47R from village Chincholi, Taluka Bhoom, District Osmanabad by way of sale deed in the year 1991. It is further case of the petitioners that the partition deed came to be recorded on 24.07.2008 wherein certain portion came to be allotted to the petitioners. The present petitioners filed application before the Talathi for taking mutation entries in the revenue record. The mutation entry was taken bearing No. 724 on 25.11.2008. However, the same was not sanctioned by the Circle Officer. Later on, the petitioners even gave proclamation in the newspaper dated 08.10.2008 stating that in the subject suit lands there is interest of the petitioners and no one shall enter into any transaction in respect of the suit lands with respondent

No. 3. However, in spite of that, respondent No. 4 purchased the said property from respondent No. 3 by way of sale deed dated 24.11.2008. It is further case of the petitioners that, they had filed suit bearing RCS No. 266/2008 for declaration of ownership over the suit properties. It is now case of the petitioners that in view of these facts the revenue authorities ought not to have taken mutation entry in the name of respondent No. 4. The respondent authorities have taken entry in hurried manner by keeping mutation entry No. 724 pending and therefore, the mutation entry No. 763 ought to have been cancelled.

4. It is the submission of the petitioners that, the Hon'ble Minister has committed an error by passing the impugned order and prays for quashing of the said order and consequently to set aside the mutation entry No. 763.

5. Learned advocate for respondent No. 4 vehemently opposes the petition. He submits that, in fact, the petition itself is filed in collusion with the petitioners and respondent No. 2 to defraud the respondent No. 4. The respondent No. 3 has sold the land in favour of respondent No. 4 and thus, now the title vests with respondent No. 4. He submits that, till today there is no challenge to the sale deed executed in his favour. The sale deed has created substantive rights in his favour. Merely because the mutation entry No. 724 was prior in time is

reason to deny the right of respondent No. 4. He thus supports the order passed by the Hon'ble Minister.

6. The learned A.G.P also opposes the petition. He submits that, ultimately all the rights of the parties would be subject to outcome of the civil suit that is pending before the Court. The authorities have rightly taken the entries on the basis of the sale deed. The entry taken on the basis of documents created substantive right in favour of respondent No. 4 cannot be lightly cancelled and he prays for rejection of the petition.

7. Looking to the facts, it is clear that, the sale deed was duly executed in favour of respondent No. 4 and as on today there is no challenge to the said sale deed though it is executed in the year 2008. The property of respondent No. 3 was sold property. One more fact that needs to be considered is that the petitioners in the year 2008 were minors of age 12 years and 9 years. The so called publication was given by them through their grandfather. There is nothing to show that their grandfather was appointed as guardian and in fact, there was no such question when respondent No. 3 i.e. father of the petitioners was alive. In any case, such proclamation would not give any right or will not create any legal obstacle in any of the transaction. The said entry is rightly taken by following proper procedure. If the petitioners have any

grievance against the title of respondent No. 4, it was open for them to challenge the same by filing a suit for declaration that the sale deed dated 25.11.2008 is not binding upon them. However, they have not done the same.

8. Considering all above facts this Court finds that, there is no merit in the petition and the petition deserves to be dismissed.

9. The writ petition stands disposed off.

**( KISHORE C. SANT, J. )**

PS.B.