

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1026 WRIT PETITION NO.8390 OF 2018

HASAN AMIR RAJE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners: Mr. Sawant Amol S.
AGP for Respondent/State: Mrs. M. L. Sangit
Advocate for Respondents No.5 to 8: Mr. U. U. Wagh

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CORAM : ARUN R. PEDNEKER, J.

DATE : 30th NOVEMBER, 2023

PER COURT:

1. Heard.

2. Based on the application of the petitioners mutation entry no.7076 was recorded on 08.08.2013 by the Talathi. The mutation entry no.7076 is challenged by respondents no.5 to 8 before the Sub-Divisional Officer. The Sub-Divisional Officer in the appeal filed held that the mutation entry was made without notice to the appellants therein and, thereafter, the Sub-Divisional Officer quashed and set aside the said mutation entry. The challenge to the order of the Sub-Divisional Officer is also dismissed by the appellate / revisional authorities. Challenging the

order passed by the Sub-Divisional Officer dated 31.12.2016 and the orders of the appellate authorities, the present writ petition is filed.

3. The learned counsel for the petitioners submits that the mutation entry made by the Talathi was set aside on the ground that respondents no.5 to 8 were not heard in the matter and the copy of the compromise was not placed on record and also the relevant records were not available before the Talathi. The learned counsel submits that once the Sub-Divisional Officer comes to the conclusion that the procedure as contemplated is not followed after setting aside the mutation entry by the Talathi, the matter ought to have been remitted back to the Talathi for fresh decision on the application for mutation entry.

4. The learned counsel for the respondents submits that there is an alternate remedy available so also he submits that the Sub-Divisional Officer has passed the order on merits.

5. Having heard the learned counsel for the parties, the matter is now pending in this court from the year 2018, it is more appropriate instead of relegating the parties to alternate remedy and that there is a procedural error in the order passed by the Sub-Divisional Officer the order passed by the Sub-Divisional Officer is modified to the extent that the order of the Talathi is set aside and the matter is remitted to the Talathi for fresh consideration. It is hereby directed that the revenue entry made by the Talathi bearing no.7076 is set aside, to that extent the order of the Sub-Divisional Officer is maintained. The Talathi to reconsider the entire application of the petitioners and to decide the revenue entry no.7076 afresh and take a decision on the same within a period of four (04) months from today. The parties to appear before the Talathi on 14.12.2023, so as to enable the Talathi to fix further dates in the matter.

6. All the orders passed by the appellate authorities challenging the order passed by the Sub-

Divisional Officer dated 31.12.2016 are also quashed and set aside.

7. Status quo as of today shall be maintained till decision of the Talathi.

8. With the above directions, the writ petition stands disposed of.

[ARUN R. PEDNEKER, J.]

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