IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6241 OF 2023

Subrao s/o Maruti Ghute, ... **Petitioner**
Age 36 years, Occu: Agri.
R/o Veeda, Tq. Kaij, Dist. Beed

VERSUS

1. The State of Maharashtra,
   Through the Principal Secretary,
   Revenue Department, Mantralaya, Mumbai

2. The Collector, Beed. Dist. Beed ... **Respondents**

3. The Tahsildar, Kaij, Dist. Beed

4. The Talalthi, Talathi Saja
   R/o Veeda, Tq. Kaij, Dist. Beed

Shri U. M. Humbe, Advocate for the petitioner
Shri S. K. Tambe, AGP for respondents-State

CORAM : RAVINDRA V. GHUGE, &
Y. G. KHOBRAGADE, JJ.

DATE : 13th June, 2023

ORDER (Per Y. G. Khobragade, J):

1. By the present petition, under Article 226 of the Constitution of India, the petitioner prays for issuance of Writ of Mandamus directing respondent No.3-Tahsildar to decide his representation dated 10.12.2019 seeking mutations in revenue records on the basis of the compromise arrived at on different dates in different proceedings viz.

dated 25.10.1966 in RCS No.133/1966, 27.08.1970 in RCS No. 154/1970 and 16.12.2000 in RCS No.143/1998.

2. The learned counsel appearing for the petitioner canvassed that, Shri Maruti Ghute, the father of the petitioner, is owner of Survey No.520/1 admeasuring 25 Are, Survey No. 520/6 admeasurig 37 Are, Survey No. 520/10 admeasuring 34 R. Smt. Prayagbai Maruti Ghute, mother of the petitioner, is owner of Survey No. 520/6 admeasuring 60 R. The petitioner- Subrao Maruti Ghute is owner of Survey No.520/6 admeasuring 20 R and Survey No. 520/1 admeasuring 11 R. The parents of the petitioner have became owners of the said land by virtue of compromise arrived at between the parties in the above civil proceedings. On 10.12.2019, the petitioner and his parents have submitted a representation to respondent No.3 Tahsildar to record their names in the revenue record. However, since last four years, respondent no.3 failed to decide the said representation. Hence, the petitioner prayed for issuance of directions to respondent No.3 Tahsildar to decide the said representation within a stipulated period.

3. Having regard to the submissions canvased on behalf of the petitioner, we have gone through the record. It is apparent on the face of the record that the real brother of the petitioner's grandfather had instituted a suit being RCS No. 133/1965 for partition and separate possession. In the said suit, Shri Bapurao Buvaji Ghute, grandfather of

the petitioner, was a party-defendant. On 25.10.1966, said suit was compromised between the parties to the said suit. Thereafter, the Deputy Superintendent of Land records has undertaken measurement of the lands involved in the suit. However, prior to approval of mutation, son and grandsons of Bapurao Buvaji Ghute filed RCS No. 154/1970 which came to be decided on 27.08.1970.

4. On bare perusal of the representation dated 10.12.2019 (Annexure A), it appears that RCS No. 154 of 1970 was compromised on 28.07.1970 between the parties therein. Subsequently RCS No. 143/1998 (Maruti Bapurao Ghute Vs. Navnath Rajendra Ghute) was instituted. However, on 16.12.2000, parties to the said suit entered into a compromise. As per the said compromise, 3 (three) shares out of survey No. 520/6 and entire Survey No. 520/10 came to the share of Bapurao Maruti Ghute, father of the petitioner. The representation does not disclose as to whether the parties to the above suits i.e. RCS No. 133 of 1965, RCS No.154/1970 and RCS No. 143/1998 have instituted execution proceeding to execute the decrees passed in the said suits. On 10.12.2019, the petitioner and his parents, for the first time, submitted a representation for getting mutation of their names in revenue record in pursuant to the said compromise decrees passed on different dates in the different suits.

5. Article 136 of the Limitation Act provides 12 years period for execution of decree from the date it becomes enforceable. The petitioner has not brought any substantial material on record to establish lodging of execution proceedings within the prescribed period contemplated under Article 136 of the Limitation Act for execution of said compromise decrees. Therefore, considering the dates of the compromise decrees, it appears that the petitioner has submitted the representation dated 19.12.2019 after a lapse of more than 15 years. It is trite law that mere submitting the representation before the authorities does not extend the period of limitation. However, by this petition, the petitioner desires to get the representation dated 10.12.2019 decided, for effecting mutation entries in the record of rights pursuant to the compromise arrived at in the different suits after the lapse of the statutory period.

6. While exercising powers under Article 226 of the Constitution of India, the Court should not permit the litigating parties to raise a fresh cause of action for the claim which is already barred by the law of limitation. Therefore, considering the grievance of the petitioner, if respondent No.3 is directed to decide the representation dated 10.12.2019, it would certainly amount to permitting the petitioner to create a fresh cause of action to claim mutation of names in the revenue record, which is hopelessly barred by limitation.

7. In view of above, we do not find any merit in the present petition. Hence, it is **dismissed**.

(Y. G. KHOBRAGADE, J.) **(RAVINDRA V. GHUGE, J.)**

JPChavan