

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

WRIT PETITION NO. 12432 OF 2019

Minabai Shamrao Pawar

.. Petitioner

Versus

1. Sindhubai Shaligram Sonawne

2. The Sub Divisional Officer,
Dhule Division, Dhule,
Dist. Dhule.

.. Respondents

Mr. Amit S. Savale, Advocate for the Petitioner.

Mr. V. B. Kale, Advocate h/f Mr. N. B. Narwade, Advocate for
Respondent No. 1.

Smt. D. S. Jape, AGP for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 19th AUGUST, 2023.

P. C. :-

. At the outset, learned advocate for the petitioner seeks leave to
add State of Maharashtra as a party.

2. Leave is granted. The petitioner to carry out amendment
forthwith.

3. Issue notice to added respondent, returnable forthwith. Learned
A.G.P. waives notice for added respondent.

4. By consent of the parties the matter is taken up for final disposal at the stage of admission.

5. The present petitioner had filed revision before the learned S.D.O. praying for quashing of the mutation entry Nos. 1702 and 2541. The learned S.D.O. was pleased to allow the said revision/Appeal No. 30/2013. He directed the Talathi to make enquiry about the legal heirs of Sattu Bhaurao and to take entries in their name in the revenue record. The said order was challenged by respondent No. 1 before the learned Collector, Dhule in RTS Appeal No. 38/2014. The learned Collector confirmed the order passed by the learned S.D.O. by judgment and order dated 04.10.2017. The respondent No. 1 challenged the said order before the learned Additional Commissioner, Division Nashik, Nashik. The said revision bearing No. 922/2017 came to be allowed. The order passed by the learned Collector came to be set aside. The petitioner therefore approached the State Government. The Hon'ble Minister allowed the revision and directed to remand the matter for re-enquiry. It is further made clear that, the orders would be subject to outcome of the proceeding before the Civil Court. The grievance of the petitioner is that, once the order of the learned S.D.O. is confirmed by the Hon'ble Minister it was not necessary to remand the matter for fresh enquiry. It is also not specified as what enquiry is

directed. He submits that, already learned S.D.O. had directed to make enquiry about the heirs of deceased Sattu Bhaurao. Only this clause No. 2 of the order dated 24.05.2019 is not necessary.

6. Learned A.G.P submits that, in any case in the order it is made clear that, the orders are subject to outcome of the civil proceedings between the parties and no prejudice is caused to any of the parties.

7. Learned advocate for respondent No. 1 submits that, enquiry was as to whether the rights can be transferred by way of will as the land appears to be of new tenure.

8. This Court finds that, in the order the Hon'ble Minister has already held that the transfer of land cannot be effected by will. Thus, there is nothing to be inquired into when specific finding is recorded by the Hon'ble Minister. Since the Hon'ble Minister in the order itself has made it clear that this order will be subject to outcome of the civil proceedings, this Court finds that, no case is made out to call interference with the findings recorded by the Hon'ble Minister. Since clause (2) of the operative order appears to be inconsistent to the findings recorded by the Hon'ble Minister, the said clause is deleted. Except that, the order is maintained.

9. The writ petition is partly allowed in above terms. The writ petition stands disposed off.

(KISHORE C. SANT, J.)

P.S.B.