

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO.324 OF 2019

VITHALRAO WAMANRAO RASVE
VERSUS
THE STATE OF MAHARASHTRA THRO. COLLECTOR, PARBHANI
AND OTHERS

...
Advocate for Appellant : Mr. M. P. Kale
AGP for Respondents: Mrs. P.V. Diggikar
...

CORAM : R.M. JOSHI, J

DATE : APRIL 13, 2023

PER COURT :

1. This second appeal takes exception to the judgment and decree passed by the First Appellate Court as well as Trial Court wherein suit bearing R.C.S. No. 21 of 2010 filed for mandatory injunction seeking directions to Revenue Authorities to mutate his name and defendant no. 2's name in revenue record on basis of compromise decree, is dismissed for want of tenability.

2. Learned Counsel for the Plaintiff states that both Courts below committed error in not considering the fact that on the basis of decree Plaintiff is seeking mutation of his name in the revenue record since the defendant nos 1 to 3 have failed to concede

to his request, the suit is filed. On the other hand, learned AGP opposes the said contention by stating that under Section 158 of the Maharashtra Land Revenue Code (for short 'Code') the suit filed by the plaintiff is not tenable.

3. There is not dispute about the fact that the Plaintiff has filed suit seeking direction to the revenue authorities to mutate his name of Defendant No. 4 in respect of the suit property in revenue record on the basis of compromise decree passed in R.C.S. No. 156/1998. The moot question falls for consideration as to whether suit in the form brought by the plaintiff is tenable.

4. Section 158 of the Maharashtra Land Revenue Code provides that no suit shall lie against the State Government or any officer of the State Government in respect of a claim to have an entry made in any record or register that is maintained under this Chapter or to have any such entry omitted or amended.

5. The prayer made in present suit squarely falls within the mischief of this provision and bar would

attract to such suit. In view of the bar of the suit, both the Court below have rightly dismissed suit as not tenable. This Court finds no perversity in the said findings. No substantial question of law is involved in this Appeal. Hence, appeal stands dismissed with cost.

(R.M. JOSHI, J.)

Malani