

Amol

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8229 OF 2018**

Narayan Chetandas Sundarani ...Petitioner
Versus
Assistant Superintendent Land Record & Ors ...Respondents

Ms Minal J Chandnani, for the Petitioner.
Ms SS Bhende, AGP, for the Respondent-State.

**CORAM G.S. Patel &
Dr Neela Gokhale, JJ.**
DATED: 7th February 2023

PC:-

1. There is an Affidavit of Service. It is to be filed in the Registry. An attempt was made to serve Respondent No. 5 at his last known address. He was not found.

2. The Petition can be disposed of with an order in terms of prayer clause (b) at page 11. This is how it reads:

“(b) That this Hon’ble Court be pleased to direct the Respondent Nos. 1 to 4 to decide the representations made by Petitioner herein dated ___ to implement the decision of civil court for deletion of name of Respondent No. 5 and subsequent transfer.”

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3. The representations made by the Petitioner are annexed at Exhibit “I”, page 114, Exhibit “J”, page 116, Exhibit “K”, page 139 and in two legal notices at Exhibits “L” and “M” at pages 146 and 150. It is true that we are in 2023 and the legal notices themselves are of 2018 or early 2018, and the other representations are even earlier. But what the Petitioner has been urging is that the representations be acted on, namely the implementation of a decision of a jurisdictionally competent Civil Court. That was an order dated 8th July 2015 dismissing RCS Suit No. 494 of 2011 filed by Respondent Nos. 6 and 7. An appeal by those Respondents was dismissed on 29th February 2016.

4. The Civil Suit by Respondent Nos. 6 and 7 purported to upset an earlier order partly decreeing Suit No. 1167 of 1983 on 24th September 1990.

5. The 5th Respondent had appealed against that order. Pursuant to the part decree, an allotment of a land in question to Respondent No. 5 was cancelled. Consequently, according to the Petitioner, steps ought to have been taken by Respondent No. 1 to delete the name of Respondent No. 5 in the Property Card.

6. This is all that the Petitioner seeks, namely that the decree of 24th September 1990 be now implemented, and all intervening contrary actions be reversed. Those intervening actions are actions of authorities relating to entries in land revenue records. We have no doubt that those actions must now be taken because otherwise the effect would be to frustrate the partial decree that has now attained

finality and which has not been upset in any manner whatsoever. Accordingly, in the present Petition, we issue rule, make it returnable forthwith and make it absolute in terms of prayer clause (b) set out above.

7. We clarify that while implementing the decision of the Civil Court, the decision in question is the one of 24th September 1990. This order will require the Respondents to carry out the necessary land record / property card entry deletions and mutations as also sought in prayer clause (a).

8. Rule is made absolute in these terms. The Petition is disposed of with no order as to costs.

(Dr Neela Gokhale, J)

(G. S. Patel, J)