IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7751 OF 2022

Smt. Janabai Baburao Tupe
(Since deceased through her legal Heirs)
Mr. Pandurang Baburao Tupe & Ors. ..Petitioners
Versus
The State of Maharashtra & Ors. ..Respondents

Mr. Mahadji Phalke, for the Petitioners.
Mr. C. D. Mali, AGP for the Respondent/State.
Mr. Ravindra Pachundkar, for the Respondent No.5.

CORAM : SANDEEP V. MARNE, J.

DATE : 5th DECEMBER, 2023

P.C.

1. The challenge in the present petition is to the order dated 25th September, 2018 passed by the Minister, Revenue setting aside the orders passed by the Sub-Divisional Officer, Additional Collector and Divisional Commissioner. The Minister, Revenue has set aside the Mutation Entry Nos.1480 and 2511 and has directed effecting of mutation entry by taking into consideration the Release-Deed dated 10th November, 1994.

2. I have heard Mr. Phalke, the learned counsel appearing for the petitioner, Mr. Pachundkar, the learned counsel appearing for respondent No.5 and Mr. Mali, learned AGP appearing for the State Government.

3. It appears that the land in question originally stood in the name of father of petitioner i.e. Haribhau Shelke. Upon demise of Haribhau Shelke on 8th October, 1994, Mutation Entry No.1480 was effected mutating the names of the mother/Shevantabai Shelke and son/Popat Shelke to the revenue records The four sisters executed Release-Deed dated 10th November, 1994 releasing all rights in the land in question. Despite of execution of the Release-Deed, after death of Shevantabai Shelke, Mutation Entry No.2511 was effected recording names of Popat Shelke and four sisters i.e. Janabai, Champabai, Sulochana and Sharada to the revenue records of the land in question.

4. Respondent No.5/Popat Shelke was aggrieved by Mutation Entry No.2511 and filed RTS No.69 of 2004 before the Sub Divisional Officer, Maval, which came to be rejected vide order dated 31st December, 2007. Respondent No.5 thereafter unsuccessfully carried the litigation before the Additional Collector, Pune and Additional Commissioner, Pune Division and his appeal and First Revision came to be rejected vide orders dated 4th December, 2010 and 10th May, 2013. Respondent No.5 thereafter preferred Second Revision before the State Government which has been allowed by the Minister, Revenue *vide* order dated 25th September, 2018 by setting aside Mutation Entry Nos.1480 and 2511 with further direction to effect mutation entry by taking into consideration the Release-Deed dated 10th November, 1994.

5. It must be observed at this stage that the impugned order was passed by the Minister, Revenue on 25th September, 2018, whereas the present petition challenging the said order appears to have been filed on 28th January, 2022. There is no explanation for delay of about four years in filing the present petition. Therefore, on the ground of delay itself, the petition deserves to be rejected.

6. Even if the delay and laches on the part of the petitioner in challenging order dated 25th September, 2018 are to be momentarily ignored, I do not find that any case is made out by the petitioner even on merits for interference by this Court in the impugned order. By execution of Release-Deed dated 11th November, 1994, petitioner has released all her rights in the property. Therefore, after death of petitioner's mother/Shevantabai Shelke, petitioner does not have any right to get her name mutated to the revenue records. The Mutation Entry No.2511 was thus erroneously effected.

7. Learned counsel appearing for the petitioner would submit that even though Mutation Entry No.1480 was never challenged by the respondent No.5 in any of the proceedings, Minister, Revenue has erroneously proceeded to set aside even Mutation Entry No.1480. There appears to be some merit in the said submission raised by Mr. Phalke. However, the same would not render the order dated 25th September, 2018 passed by Minister, Revenue erroneous. Even if Mutation Entry No.1480 is maintained,

the same would create no right in favour of the petitioner. By Mutation Entry No.1480, names of mother/Shevantabai Shelke and son/Popat Shelke came to be mutated on revenue record upon death of father/Haribhau Shelke. Thus, *vide* Mutation Entry No.1480 petitioner's name was never mutated and therefore, non-challenge to Mutation Entry No.1480 would not have any impact on the challenge raised by respondent No.5 to Mutation Entry No.2511. Name of the petitioner and her three sisters came to be mutated to the revenue records for the first time by Mutation Entry No.2511. The said Mutation Entry No.2511 was in the teeth of Release-Deed dated 10th November, 1994. The Sub-Divisional Officer, Additional Collector and Additional Commissioner erroneously glossed over the factum of execution of Release-Deed by the sisters releasing of their rights in respect of land in question. In my view, therefore, Minister, Revenue has correctly exercised the revisional jurisdiction in correcting the errors committed by the Sub Divisional Officer, Additional Collector and the Additional Commissioner. Mr. Phalke, in support of his contention would rely on the judgment of this Court in the matter of ***Vijaykumar Kachrulal Abad Vs. Hon'ble Minister, Revenue and Forest Department, Mantralaya, Mumbai & Ors.*** reported in ***2002(1) Mh.L.J. 854*** and submit that extraneous consideration cannot be a ground for exercise of revision under the provisions of Section 257 of the Maharashtra Land Revenue Code, 1966. In my view, reliance placed by Mr. Phalke on the judgment of this Court in the matter ***Vijaykumar Kachrulal Abad*** *(supra)* would not cut any ice in view of the fact that there is no extraneous consideration by the Minister, Revenue while passing order dated 25th September, 2018. Even if it is assumed that correctness of Mutation Entry No.1480 has been erroneously determined by the Minister, Revenue in absence of the challenge to the same, the same has no effect on the ultimate decision of the Minister, Revenue. In my view, therefore, no case is made out by the petitioner for interference by this Court in exercise of jurisdiction under Article 227 of the Constitution of India.

8. The Writ Petition is being devoid of merits, dismissed without any orders of cost.

[SANDEEP V. MARNE, J.]