

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12074 OF 2016

Kumudini Chandrakant Petkar
and Ors.

...Petitioners

V/s.

State of Maharashtra and Ors.

..Respondents

— — —

Dr. Uday Warunjikar, for the Petitioners.

Mr. P.P. Pujari, AGP for State- Respondent No.1.

Mr. Soham Powar i/by. Mr. Rajesh More, for Respondent No.2.

CORAM : SANDEEP V. MARNE, J.

Dated : 16 October 2023.

P.C. :

1. Heard learned counsels for the parties.
2. By this petition, Petitioners challenge order dated 19 November 2015 passed by the Additional Commissioner, Pune rejecting the Revision Application No.358/2008. Before the Additional Commissioner, Petitioners had assailed order dated 31 May 2008 passed by the Additional Collector, Pune. The Sub-Divisional Officer's order dated 17 June 2006 was the subject matter of challenge filed in the RTS Appeal filed before the

Additional Collector. Before the Additional Collector, Petitioners had challenged the order passed by the Tenancy Avval Karkoon, Mulshi on 6 August 2004 by which it was ordered that Mutation Entries No. 2638, 2639 and 2640 be cancelled. By those mutation entries, name of Petitioners were mutated to the record of rights of the land in question. The main reasons for the Tenancy Avval Karkoon to direct cancellation of the said Mutation Entries appear to be alleged non-payment of full consideration agreed under the registered sale-deed and failure on the part of the Petitioners to prove that they are Agriculturists as on the date of execution of the sale-deed.

3. The Petitioners have an alternate remedy of filing a second revision under the provisions of Section 257 of the Maharashtra Land Revenue Code before the State Government.

4. Accordingly, the present petition can be disposed of by granting Petitioners liberty to file second Revision Application before the State Government. While considering and deciding the Revision Application, the State Government shall decide the issue as to whether alleged non-payment of full amount of consideration under the registered sale-deed can be a valid reason for Revenue Authorities to set aside a Mutation Entry. The State Government shall also take into consideration the evidence that would be produced by the Petitioners in support of their claim that they are

Agriculturists. The time spent in prosecuting the present petition shall be considered for condoning the delay in filing the Revision Application. The State Government shall decide the Revision Application in an expeditious manner. With the above directions, the Writ Petition is **disposed of**.

NEETA
SHAILESH
SAWANT

SANDEEP V. MARNE, J.

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NEETA SHAILESH
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Date: 2023.10.17
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