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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 166 OF 2023**

Mrs. Talat Jahan Wife of Abu Safiyan ... Petitioner
Mushtaque Ahmed

vs.

The State of Maharashtra through its ... Respondents
Secretary Revenue Department and Another.

Mr.S.M. Gorwadkar, Senior Advocate i/b. Mr. Hemant Ghadigaonkar
for the Petitioner

Mr.M.S. Bane, AGP for Respondent Nos. 1 and 2.

**CORAM : R. D. DHANUKA &
GAURI GODSE, JJ.**

DATED : 25 APRIL, 2023

P.C. :-

1. Rule. Learned AGP waives service for the Respondents. Rule is made returnable forthwith. By consent of the parties, Petition is taken up for final hearing.

2. This Petition is filed for challenging order dated 19th March 2018 and 22nd November 2018 passed by Respondent No. 2 thereby refusing to enter the name of the Petitioner in the Revenue Record in respect of the suit property being CTS No. 1523, Village-Kole Kalyan, From survey No. 437/2, situated at Vakola Village, Santacruz (East), Mumbai-400 055.

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3. Learned counsel for the Petitioner states that there is a decree in favour of the Petitioner passed on 5th October 2017 by the City Civil Court in S.C. Suit No. 1743 of 2010 thereby declaring that the project initiated under The Urban Land (Ceiling and Regulation) Act 1976 stands abated, in view of Section 3 and 4 of The Urban Land (Ceiling and Regulation) Repeal Act, 1999. Learned counsel for the Petitioner therefore submits that application was filed for deleting name of the State Government from the Revenue Record and for entering the name of the Petitioner in the Revenue record with respect to the aforesaid property. However, the said application is rejected by Respondent No. 3 for want of production of NA order in respect to the said property.

3. Learned counsel for the Petitioner states that on 31st December 1968 non agricultural use was regularised by imposing penalty and the copy of the said order is already submitted before Respondent No.3. The statement is accepted. The learned AGP has placed on record order dated 28th October 2022 passed by Respondent No.1 – The Collector and Competent Authority (ULC) granting approval for deleting name of the State Government from the Revenue Record in respect of the aforesaid property.

4. In view of the aforesaid facts, Writ Petition can be disposed of by directing Respondent No. 3 to decide the application filed by the Petitioner by taking into consideration the order dated 31st December 1968 as well as order dated 28th October 2022. In view of the aforesaid both impugned orders dated 19th March 2018 and 22nd November 2018 are required to quashed and set aside.

5. Hence Writ Petition is disposed of by passing following order :

(i) The communications dated 19th March 2018 and 22nd November 2018 passed by Respondent No. 3 are quashed and set aside.

(ii) Respondent No. 3 shall decide the application dated 6th March 2018 filed by the Petitioner after taking into consideration the order dated 31st December 1968 and order dated 28th October, 2022.

(iii) We have not expressed any opinion on the merits of the application of the Petitioner.

(iv) Respondent No. 3 shall take appropriate decision as per its own merits.

- (v) All the contentions of the parties are kept open.
- (vi) The application shall be decided within a period of six week from today and copy of the decision shall be communicated to the Petitioner within a period of one week from date of the decision.
- (vii) If the application of the Petitioner is allowed, necessary compliance should be made for giving effect to the order within a period of two weeks from date of decision.
- (viii) In the event the order is adverse to the Petitioner, the Petitioner will be at liberty to adopt appropriate proceedings as permissible in law.
- (ix) Rule is made absolute in the above terms.
- (x) Writ Petition is disposed of.
- (xi) All parties to act on an authenticated copy of this order.

(GAURI GODSE, J.)

(R. D. DHANUKA, J.)