

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6829 OF 2022

Mr. Youhan Ardeshir And Ors. ...Petitioners
Versus
State Of Maharashtra And Ors. ...Respondents

WITH
WRIT PETITION NO. 6842 OF 2022

Mr. Youhan Ardeshir And Ors. ...Petitioners
Versus
State Of Maharashtra And Ors. ...Respondents

...

Mr. Rameshwar Totala a/w Mr. Rahul Totala a/w Mr. Ashwin Poojari i/by R.T.
Legal, for Petitioners in both Petitions.

Mr. S.D. Rayrikar, A.G.P. for Respondent Nos.1 to 4 in both Petitions.

Mr. Prajkt M. Arjunwadkar for Respondent Nos.5 & 6 in both Petitions.

...

CORAM : SANDEEP V. MARNE, J.

DATE : SEPTEMBER 07, 2023.

P.C.:

1. In these Petitions, Petitioners are challenging the order of Sub
Divisional Officer dated 19 October 2018, order of the Additional Collector
dated 30 June 2020 and the orders of the Additional Divisional Commissioner
dated 2 September 2021, 21 December 2021 and 10 May 2022.

2. It appears that the Petitioners are aggrieved by the order passed by

the Sub Divisional Officer on 19 October 2018 by which, according to Mr. Totala, learned Counsel appearing for Petitioners, the Sub Divisional Officer proceeded unsettled the settled position by disturbing mutation entries recorded 70 years ago. Mr. Totala would further submits that the Sub Divisional Officer ignored the fact that the disputes between the parties are pending in a substantive civil suit and that therefore there was no occasion for the Sub Divisional Officer to venture into determining correctness of the mutation entries. That the Respondents have adopted a short cut method of approaching the revenue authorities rather than getting their rights established in a substantive pending civil suit.

3. Be that as it may, the Sub Divisional Officer has decided against the Petitioners by order dated 19 October 2018. Petitioners' appeal against the order of Sub Divisional Officer have been rejected by the Additional Collector on 30 June 2020. Aggrieved by the decision of the Additional Collector, Petitioners have instituted Revision before the Additional Divisional Commissioner. The Revisions are however rejected on the ground of default by order dated 21 December 2021. When Petitioners filed an application for restoration of the Revisions, the Additional Commissioner has refused to restore the Revision by order dated 10 May 2022. Aggrieved by the said

decision of the Additional Commissioner, the present Petitions are filed.

4. Mr. Totala has strenuously submitted before me that the orders passed by the Sub Divisional Officer ex-facie illegal and are required to be set aside. He would submit that this Court has necessary supervisory power to determine the correctness of the orders passed by the Sub Divisional Officer and Petitioners need not be relegated to Additional Divisional Commissioner by restoring the Revision Petitions.

5. However, considering the issues raised by the parties, it would be appropriate that the revenue authorities first decide the rights and contentions of the parties. The Additional Divisional Commissioner has not considered merits of the Revisions filed by the Petitioners and has dismissed the same for default. It is therefore necessary in the interest of justice that the Additional Divisional Commissioner first considers the revisions filed by Petitioners on merits. It is therefore necessary to set aside the orders passed by the Additional Divisional Commissioner dated 2 September 2021, 21 December 2021 and 10 May 2022. This would enable the Petitioners to raise all contentions on merits before the Additional Divisional Commissioner.

6. Accordingly present Petitions are disposed of by setting aside the orders dated 2 September 2021, 21 December 2021 and 10 May 2022 passed

by the Additional Divisional Commissioner.

7. The Revisions filed by the Petitioners are restored.

8. The Additional Divisional Commissioner shall proceed to decide the Revision Petitions on merits after considering all the points raised by Petitioners.

9. All the contention of parties on the merits of the case are left open.

10. Considering the fact that, the Petitioners have raised the issue of Sub Divisional Officer allegedly in disturbing the mutation entries after 70 years, without filing any application for condonation of delay, it would be appropriate that the Additional Divisional Commissioner decides the Revision Petitions in an expeditious manner, preferably within a period of four months from today.

11. The interim order of the status quo granted by this Court on 25 August 2022 shall continue to operate till decision of the Revision Petitions by the Additional Divisional Commissioner.

12. The parties to appear before Additional Divisional Commissioner on 25 September 2023.

13. With the above directions, Writ Petitions are disposed of.

(SANDEEP V. MARNE, J.)