

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12485 OF 2017

~~Revgonda Bapuray Biradar~~

Since Deceased through Tejasvi Revgonda Biradar
 and Ors.

.. Petitioners

Versus

~~Malappa Mahaduray Biradar~~

Since deceased through Arjun Mallapa Biradar and
 Ors.

.. Respondents

.....

- Mr. Kuldeep U. Nikam, Advocate for Petitioners
- Mr. P. G. Sawant, AGP for Respondent Nos. 3 to 6
- Mr. Anilkumar D. Sale, Advocate for Respondent Nos.1a and 2

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 14, 2023.

P.C.:

1. Heard Mr. Nikam, learned Advocate for Petitioners; Mr. Sawant, learned AGP for Respondent Nos. 3 to 6 and Mr. Sale, learned Advocate for Respondent Nos. 1a and 2.

2. On 01.02.2023 this Court passed the following order:-

“1. Heard Mr. Nikam, learned Advocate for Petitioners; Mr. Sale, learned Advocate for Respondent Nos.1a and 2 and Mr. Rayrikar, learned AGP for the State.

2. Perused the impugned order 06.09.2016 passed by the learned SDO, Jath in RTS Revision Application No.95 of 2014.

3. At the outset, Mr. Nikam would submit that the Petitioner ought to have filed the Statutory Appeal before the SDO to challenge the cancellation of mutation entry under the provision of Section 257 of the Maharashtra Land Revenue Code, 1966, but inadvertently filed the Revision Application before the SDO in which the impugned order has been passed. He urged the Court that the Petitioners’ substantive right to file the Appeal before the SDO instead of Revision has therefore got curtailed. He has therefore submitted that the Petitioners be permitted to file the Statutory Appeal and the impugned order be set aside as

it would enure to the benefit of the Petitioners.

4. Be that as it may, Mr. Sale would submit that he would go through the papers and obtain appropriate instructions from his client and file his Affidavit-in-Reply on or before the next date.

5. It is made clear that the present Writ Petition shall be heard finally at the stage of admission.

6. Stand over to 08th February, 2023.”

3. Mr. Sale would submit that the statutory remedy that would be available to the Petitioners shall be exercised by Petitioners subject to the Respondents being heard by the concerned statutory Authorities. The statement made by Mr. Sale is fair and is accepted by Court. In view the observations made in paragraph No. 3 of the above order, Petitioners are allowed to withdraw the Revision Application and file the statutory Appeal before the SDO.

4. In view of the above, the impugned order dated 06.09.2016 stands quashed and set aside with liberty to Petitioners to challenge the mutation entry before the appropriate Authority/ SDO under Section 257 of the Maharashtra Land Revenue Code, 1966 in Appeal jurisdiction by filing the Statutory Appeal strictly in accordance with law.

5. All contentions of both parties are expressly kept open including the issue of limitation.

6. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]