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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO. 728 OF 2022

Vasudev Ananta Bhoir

..... Petitioner

Vs.

Kishan Jawale,
Additional Divisional
Commissioner & Ors.

..... Respondents

Ms. Preeti Walimbe for the Petitioner
Mr. M. M. Pabale, AGP for the State

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : JANUARY 17, 2023

P.C.

1. The Petitioner alleges contempt of the order passed by this Court dated 4th July 2019 in PIL No.163 of 2018.

2. The learned Counsel for the Petitioner submits that under order dated 4th July 2019 this Court had observed that the Collector of District Thane should ensure that in view of the order dated 27th September 2010 the subject lands are protected by the State Government and not permitted to be encroached upon.

3. On 27th September 2010, an order was passed by the Sub Divisional officer, Thane thereby cancelling the Mutation Entry

No.575 and temporarily taking over the land under Section 34 of the Maharashtra Land Revenue Code, 1966 (**the Code**). Under the said order, the Sub Divisional officer further observed that the persons claiming to be legal heirs of deceased Maruti should obtain the succession certificate and probate on the Will. After the same is obtained, it is to be submitted to the Tahasildar and the Tahasildar may take a decision, as to whether the names of the legal heirs are to be recorded or not.

4. The learned Counsel submits that in the succession proceedings or the probate proceedings, neither the Petitioner nor the State was party. The Mutation Entry in the name of the State came to be changed. The Petitioner challenged the same before the Commissioner. The Commissioner dismissed the appeal filed by the Petitioner. According to the learned Counsel, the property belongs to the Government and the Government property has to be protected. The Petitioner is prosecuting to protect the Government property.

5. PIL No.163 of 2018 filed by the Petitioner was dismissed by this Court under order dated 4th July 2019. However, this Court had observed that the Collector of District Thane shall ensure that in view of order dated 27th September 2010, the subject lands are protected by the State Government.

6. The order of the Sub Divisional Officer dated 27th September 2010 temporarily took over the land under Section 34(1) of the Code and further issued directions to the persons who claimed to be the legal heirs of deceased Maruti to get succession certificate and the probate and after the same is submitted, to make further inquiry and take decision with regard to mutating the name of the legal heir or otherwise. After issuance of succession certificate or the probate, the Authority was entitled to take decision, whether the name of such person is to be mutated or not.

7. Mutating and/or cancelling the name of the person from the revenue record would be quasi judicial act. If, according to the Petitioner, wrong order has been passed by the Revenue Authority in cancelling the mutation entry of the Government and/or recording the name of another person, then the Petitioner has remedy under Section 247 or 257 of the Code. It is for the aggrieved party to avail the remedy, as is provided under the Code or under the Statute.

8. With the aforesaid observations, the Contempt Petition is disposed of.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)