IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7838 OF 2022

Nanasaheb Anandrao Pawar ... Petitioner
versus
State of Maharashtra and Ors. ... Respondents

Mr. Kalpesh Patil with Mr. Vivek Rane i/by Mr. A.R.Kapadnis for Petitioner.
Mr. S.D.Rayrikar, APP for Respondent Nos.1 to 4.

CORAM: N.J.JAMADAR, J.

DATE : 30 MARCH 2023

P.C.

1. Heard the learned Counsel for the parties.

2. This Petition under Article 227 of the Constitution of India assails the legality, propriety and correctness of the judgment and order dated 21 June 2021 passed by the Revenue Minister in RTS Revision Application No.RTS 3017/4553/Pra.ka 451/J-6 under Section 257 of the Maharashtra Land Revenue Code, 1966, whereby and whereunder the Revision Application preferred by Respondent Nos.5 to 7 came to be allowed by setting aside the judgment and order dated 15 September 2017 passed by the Divisional Commissioner, Nashik Division in RTS Appeal No.100 of 2016 and the judgment and order dated 28 March 2016 passed by the Additional Collector, Malegaon in RTS Appeal No.36 of 2015 and restoring the order dated 1 January 2015 passed by the Sub-Divisional Officer, Yewala in RTS Revision No.46 of 2013.

3. Short of unnecessary details, the background facts can be stated as under :

3.1 The agricultural lands bearing Gat Nos.180 and 302 situated at Village Pathardi, Tal. Nandgaon, District Nashik were the ancestral properties of the Petitioner and Respondent No.6. The Petitioner and Respondent No.6 are the brothers. Respondent No.5 is the wife and Respondent No.7 is the son of Respondent No.6. The agricultural lands were partitioned amongst members of the joint family in the year 1985. Mutation Entry No.448 was certified on 1 February 1986.

3.2 The Petitioner, it is contended, transferred a portion of the agricultural land bearing Gat No.302/3 in favour of Respondent No.6. Mutation Entry No.797 came to be certified on 9 January 1993. Again in the year 2001, the Petitioner transferred a portion of agricultural land bearing Gat No.108/3/1 in favour of Respondent No.6 and mutation entry No.2135 was certified on 11 May 2001. Thereafter, Respondent No.6 further transferred the said lands amongst his family members, resulting in certification of mutation entry No.2282 on 30 July 2004.

3.3 In the year 2013, the Petitioner preferred Revision Application being RTS Revision No.46 of 2013 before the Sub-Divisional Officer, Yewala and challenged certification of mutation entry Nos.797, 2135 and 2282. By an order dated 1 January 2015, the Sub-Divisional Officer, Yewala, was persuaded to dismiss the Revision Application opining, inter alia, that the mutation entries were certified after following due process and with the consent of the Petitioner.

3.4 Being aggrieved, the Petitioner assailed the said order before the Additional Collector, Malegaon in RTS Appeal No.36 of 2015. By a judgment and order dated 28 March 2016, the Additional Collector allowed the Appeal and set aside Mutation Entry Nos.797, 2135 and 2282.

3.5 Being aggrieved, Respondent Nos.5 to 7 preferred second RTS before the Additional Commissioner being RTS Appeal No.100 of 2016. The Additional Commissioner affirmed the order of the Additional Collector.

3.6 Being further aggrieved, Respondent Nos.5 to 7 preferred Revision Application before the State Government under Section 257 of the Code. By the impugned order, the Revenue Minister was persuaded to allow the Revision holding, inter alia, that mutation entry Nos.797, 2135 and 2282 were certified after following due procedure and the Petitioner challenged first of those entries after about 20-22 years. The Sub-Divisional Officer had rightly rejected the Revision Application. Against the said order passed in Revision, the Appeal before the Additional Collector was untenable.

3.7 Being aggrieved by the impugned order, the Petitioner has invoked writ jurisdiction of this Court.

4. I have heard Mr. Patil, learned Counsel for the Petitioner and Mr. Rayrikar, learned AGP for the State. With the assistance of the learned Counsel for

the parties, I have perused the material on record.

5. Mr. Patil made an earnest endeavour to persuade the Court to hold that the revisional authority in exercise of limited jurisdiction could not have interfered with the order passed by the authorities below which can in no way be termed 'perverse'. Since the Petitioner has alleged that Respondent No.6 by abusing dominating position had obtained the signatures of the Petitioner on documents without apprising the import thereof and thereby got the mutation entries certified, the Revenue Minister could not have set aside the well reasoned orders of the Additional Collector and Additional Commissioner.

6. I have given careful consideration to the aforesaid submissions. I find it difficult to agree with the submissions of Mr. Patil. Implicit in the submission of Mr. Patil is the execution of documents on the strength of which the mutations were effected. The question as to whether there was coercion or undue influence could not have been lawfully inquired into by the revenue authorities. Whether certification of the mutation entries was in conformity with the provisions of the Code and the rules framed thereunder, was within the province of the revenue authorities. The Sub-Divisional Officer, Yewala, had justifiably declined to set aside the mutation entries which were effected more than a decade ago. It was further noted that the notices were duly served and mutation entries were certified with the consent of the Petitioner.

7. In the aforesaid view of the matter, the Additional Collector and the Additional Commissioner clearly fell in error in overturning the findings of the Sub-Divisional Officer, Yewala. The Revenue Minister was, thus, justified in correcting the error into which the authorities below had fallen in, in exercise of the revisional jurisdiction.

8. It is trite that the entries in the record of right do not make or unmake title. They are primarily made for fiscal purposes. If it is the case of the Petitioner that his signatures were obtained on the documents either under duress or by practicing fraud, the legitimate course would be to institute the Suit based on proprietary title, if so advised.

9. Resultantly, I do not find any justifiable reason to interfere with the impugned order in exercise of extra-ordinary writ jurisdiction. The Petition fails.

10. Hence, the following order :

ORDER

(i) The Writ Petition stands dismissed.

(ii) No costs.

(N.J.JAMADAR, J.)