

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

WRIT PETITION NO. 4034 OF 2022

Veronica Jokim Gomes

...Petitioner

Versus

The State of Maharashtra Thr.
Secretary Revenue Dept. & Ors.

...Respondents

Mr. Pradip R. Kadam, for Petitioner.

Mr. A. P. Vanarse, AGP for Respondent Nos.1 to 3.

Mr. Suresh C. More for Respondent No.4.

CORAM: SANDEEP V. MARNE, J.

DATE : 31 AUGUST 2023.

ORAL ORDER:

By this petitioner Petitioner challenges order dated 14 July 2016 passed by the Additional Collector, Andheri passed in Application filed by Respondent No.4 seeking change in description of property in Non-Agricultural use permission dated 06 April 1977. Petitioner is also aggrieved by rejection of his appeal filed under Section 347 of the Maharashtra Land Revenue Code (**Code**) by Additional Commissioner, Konkan Division. He is also aggrieved by the order passed by the Hon'ble Minister by which revision filed under Section 257 of the Code has been rejected.

2. Short controversy amongst the parties is about description of property in the N.A. order dated 06 April 1977. The N. A. order has been issued in the name of Gabru Insan Gomes on 06 April 1977 granting permission for non agricultural use of land bearing No. Survey No.14, Hissa No.15, CTS No. 1203. It is case of Respondent No.4 that she is owner and occupier of land bearing Survey No.14, Hissa No.15, CTS No.1203 and the Petitioner deliberately gave wrong description of land with a view to claim rights in the land bearing Survey No.14, Hissa No.15, CTS No.1203. It is further case of Respondent No.4 that at the highest the Petitioner may have rights in respect of adjoining land bearing Survey No.14, Hissa No.15, CTS No.1206.

3. On the contrary Petitioner contends that the land bearing Survey No.14, Hissa No.15, CTS No.1203 is in his possession.

4. In my view mere description of the property in the N. A. order dated 06 April 1977 would not decide any ownership / possessory rights of parties. The said rights will have to be established by the respective parties in independent civil / revenue proceedings. The collector has merely directed that the description of land in the N.A. order dated 06 April 1977 be changed from ‘ Survey No.14, Hissa No.15, CTS No.1203’ to ‘ Survey No.14, Hissa No.15, CTS No.1206’. It must also be observed that the operative portion of the Collector’s order is not very clear. However there is no dispute to the position that the correction order of the Collector is as observed above.

5. Since the impugned order has merely corrected description of land in the N. A. order, it cannot be stated that the Collector has adjudicated upon ownership or possessory rights of rival parties. Same will have to be established in independent Civil / Revenue proceedings.

6. In that view of the matter it is not necessary for this Court to exercise jurisdiction under Article 227 of the Constitution of India to determine correctness of the impugned order. With the above observations, Writ Petition is disposed of.

SANDEEP V. MARNE, J.

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