

**Dusane**

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

**WRIT PETITION NO.12703 OF 2023**

Shahaji Manikrao Dhavale ...Petitioner

V/s.

Tajuddin Kasam Shaikh & Ors. ...Respondents

Mr. Pranav Harishchandra Bhoite for Petitioner.

Mr. Vivek V. Salunke a/w Mr. Shubham E. Budhvant  
for Respondent No.1.

Mr. S.D. Rayrikar, AGP for Respondent-State.

**CORAM: MADHAV J. JAMDAR, J.**

**DATE: 18th October 2023**

**P.C.:**

**1.** Heard Mr. Bhoite, learned Counsel appearing for the Petitioner.

**2.** The challenge in this Writ Petition is to the legality and validity of the order dated 9th August 2023 passed by the Hon'ble Revenue Minister in RTS Revision No. 3421/2443/Pra Kra. 328/J-5.

**3.** By the impugned order, the Hon'ble Revenue Minister has dismissed the said Revision and confirmed the order passed by the Additional Divisional Commissioner, Pune Division, Pune in

RTS Revision No. 316/2019 dated 20th October 2021.

**4.** It is the contention of Mr. Bhoite, learned Counsel appearing for the Petitioner that by the Mutation Entry No. 5752 dated 5th December 2011, the effect is given in revenue record to the registered sale-deed dated 30th November 2011. The said transaction is not of sale but of mortgage and therefore it is his submission that the said mutation entry is illegal.

**5.** It is an admitted position that the Petitioner has filed suit bearing Regular Civil Suit No. 171 of 2018 seeking cancellation of said sale-deed. It is also an admitted position that the present Respondent No.1 is the Defendant in that suit and he has filed an application seeking injunction in the said suit filed by the Petitioner and by order dated 29th March 2019 passed by the learned Civil Judge, Senior Division, Ghodnadi, the said application has been allowed and the present Petitioner or any other person claiming through him is temporarily restrained from alienating, creating third party interest or creating encumbrances over suit property in any manner till the final disposal of the suit. Learned Counsel appearing for the Petitioner fairly states that the said order is not challenged.

**6.** It is further significant to note that there is another suit bearing Suit No. 305 of 2017 seeking partition and in that suit, the present Respondent No.1 is impleaded as Defendant No. 10.

Learned Civil Judge, Junior Division, Ghodnadi (Shirur) by order dated 14th February 2020 passed below Exhibit 5 in Regular Civil Suit No. 305 of 2017 has *inter alia* restrained the present Petitioner as well as Respondent No.1 from alienating the suit property till final disposal of the suit. Mr. Salunke, learned Counsel appearing for Respondent No. 1 states that the said order is challenged in appeal, however, no stay has been granted.

**7.** In effect the said mutation entry which has been recorded on the basis of the registered sale-deed, is restored by the impugned order of the Hon'ble Revenue Minister, by which order dated 20th October 2019 of Additional Divisional Commissioner is confirmed.

**8.** It is clear that there is a dispute regarding the nature of said registered sale-deed. It is the contention of the Petitioner that the said registered sale-deed is in fact a mortgage deed. However, the Revenue authorities cannot adjudicate that dispute as the same will amount to revenue authorities deciding the title. The revenue authorities have rightly given the effect to the registered sale-deed in the revenue record. The impugned order of the Additional Divisional Commissioner dated 20th November 2021 specifically records that the certification of the said mutation is subject to the result of the civil suit.

**9.** Accordingly, there is no substance in the present Writ Petition and therefore the same is dismissed, however, with no order as to costs.

**(MADHAV J. JAMDAR, J.)**