



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2721 OF 2022

Shri Shivlingeshwar Chandrashekhar Balgaon]
& Ors.] ... Petitioners

Versus

Shri Narayan Gurunath Kulkarni & Ors.] ... Respondents

Mr. A. Y. Sakhare, Senior Advocate i/b Mr. B. G. Ligade for Petitioners.
Mr. S. S. Patwardhan i/b Mr. Bhooshan Mandlik for Respondent No.1.
Shri A. P. Vanarse, AGP for State - Respondent Nos.2 to 5.

CORAM :- SANDEEP V. MARNE, J.
DATE :- 09 OCTOBER, 2023

P. C. :-

1. Challenge in this Petition is to the order dated 22/03/2018 and 13/09/2019 passed by the Minister (Revenue), rejecting Petitioners' Revision and Review respectively.

2. It is Petitioners' case that in pursuance of Sale Deed in favour of their father on 07/11/2002, their father's name was mutated to the record of rights of the land in question. The Circle Officer however erroneously set aside the mutation entry by his order dated 28/02/2002 on the ground of violation of the provisions of The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ('**Fragmentation Act**'). He expired on 13/10/2012. Petitioners filed Appeal against Circle Officer's decision after a delay of 12 years on

30/06/2014. The Sub-Divisional Officer ('SDO') allowed the Appeal on 30/06/2014 and set aside the Circle Officer's decision.

3. Respondents filed Appeal before the Additional Collector, Sangli, challenging SDO's decision, which came to be allowed on 26/09/2014, confirming the decision of the Circle Officer. Petitioners filed a Review Petition before the Additional Collector, which came to be allowed by order dated 25/11/2014 and the order passed by the SDO came to be restored. The Respondents filed Revision before the Additional Commissioner, Pune, which came to be allowed on 14/05/2016, who set aside the decision of the Additional Collector in Review but committed a mistake in confirming the SDO's order dated 30/06/2014. On account of that mistake, the Respondents were required to file Revision before the Minister (Revenue), which was allowed by order dated 22/03/2018 setting aside the order of Additional Commissioner and confirming the original decision of Additional Collector dated 26/09/2014. Review filed by the Petitioners came to be rejected by the Minister (Revenue) by order dated 13/09/2019.

4. This is how the first order passed by the Additional Collector dated 26/09/2014 is maintained. By that order, the Additional Collector has set aside the SDO's decision and confirmed the decision of Circle Officer deleting the name of Petitioners' father from the record of rights of the suit property.

5. Mr. Sakhare, the learned Senior Advocate appearing for the Petitioners, would submit that the dispute amongst the parties is about area of land conveyed in favour of Petitioners' father and about violation of provisions of the Fragmentation Act. In my view, considering the long litigation that has taken place between the parties before various

hierarchical revenue officers during last 11 years, it would be appropriate that the parties are relegated to exercise remedies before the Civil Court to establish their rights, rather than remanding the present proceeding to re-open the dispute as to correctness of revenue entries.

6. Accordingly, the Petition is disposed of by leaving open the remedies available to both the sides before the Civil Court to seek necessary declaratory and injunctive reliefs. If and when any suit is filed, the same shall be decided without being influenced by any of the observations made by the revenue authorities in various orders.

7. With the above clarification, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)