



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2879 OF 2022

1. Raosaheb Anandrao Gaikwad,
Aged about 70 years, Occupation :
Agricul.
2. Rangrao Anandrao Gaikwad,
Aged about 68 years, Occupation :
Agricul.
3. ~~Vijay Jaggarao Gaikwad~~ (Dead thr. LRs)
 - 3-A. Usha W/o. Vijay Gaikwad,
Aged-55 Years, Occu. Agriculturist,
R/o. At Post Bibi, Tq. Lonar, Dist.
Buldhana.
 - 3-B. Shital Wd/o. Rameshwar Paul,
Aged-40 Years, Occu. Household,
R/o. Digras Jahagir, Dhageli,
Pimpalgaon, Tq. Seloo, Dist. Parbhani.
 - 3-C. Dr. Vikas S/o. Vijay Gaikwad,
Aged-38 Years, Occu. Medical Practitioner,
R/o. Bibi, Tq. Lonar, Dist. Buldhana.
4. Rajendra Jaggarao Gaikwad,
Aged about 40 years, Occupation :
Agriculture and Service,

All R/o. At Post Bibi, Tq. Lonar,
Dist. Buldana.

.... **PETITIONERS.**

// VERSUS //

1. Sunil Bhaskar Gaikwad,
Aged about 45 years, Occu. Agricul.
At Post Bibi, Tq. Lonar, Dist.
Buldana.
2. Additional Collector, Buldana.
3. Sub-Divisional Officer,
Mehkar, Tq. Mehkar, Dist. Buldana.
4. Circle Officer, Office at Bibi, Tq. Lonar,
Dist. Buldana.
5. Talathi, Bibi, Tq. Lonar, Dist. Buldana.
6. Shri Nilesh Appar, S.D.O., Akola,
Dist. Akola.
7. Shri Pramodsingh K. Dubey,
Additional Collector, Buldana,
Dist. Buldana.
8. Vilas Pandurang Nagre,
Aged about 48 years, Revenue Circle
Inspector, Bibi, Tq. Lonar, Dist. Buldana.
9. Gajanan Pralhad Padghan, Talathi,
Aged about 50 years, R/o. Anjani(Kd),
Tq. Lonar, Dist. Buldana.

.... RESPONDENTS.

Shri P.B.Patil, Advocate for Petitioners.

Shri Rugved Dhore, Advocate for Respondent No.1.

Ms M.A.Barabde, A.G.P. for Respondent Nos. 2 to 5.

CORAM : ANIL S. KILOR, J.
DATED : SEPTEMBER 14, 2023.

ORAL JUDGMENT :

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the parties.
3. In a challenge raised to the mutation entry made in the name of respondent No.1, the Sub-Divisional Officer, Mehkar vide order dated 31/10/2011 set aside the mutation entry No.144 carried out in the name of the respondent No.1 and directed to restore the mutation entry in the name of the petitioners in respect of Gut No.271 of Mouza: Bibi, District : Buldana.
4. The said order of Sub-Divisional Officer was maintained by the Additional Collector in appeal.

5. Thereupon, the revision was filed by the respondent No.1 along with Subhash Bhaskarrao Gaikwad, Shakuntala Ankush Sawale, Mandabai Shenfad Bhutekar, which also came to be dismissed.

6. Thereupon, Writ Petition No. 5915 of 2016 was filed by the respondent No.1 along with the above referred revision applicants. In the said writ petition, this Court on 13/11/2017 passed following order:

“Heard.

This petition arises out of order passed in proceedings for mutation of names in the revenue records.

In the impugned order passed by the Additional Commissioner, it is recorded that Regular Civil Suit No.65/2010 filed by the present respondent Nos.1 to 5 is pending, that application filed by these respondents praying for grant of temporary injunction is rejected, however, miscellaneous civil appeal filed by them is pending before the District Court. Considering these facts, in my view, it would not be appropriate for this Court to examine the challenges raised in the petition as the issues raised in the petition would be decided more effectively in the civil suit.

For the above reasons, I am not inclined to exercise the extraordinary jurisdiction. The writ petition is

dismissed. In the circumstances, the parties to bear their own costs.

It is clarified that I have not examined the legality of the impugned order / orders. It goes without saying that the Civil Court and the District Court will consider the matter on merits without being influenced by the observations made by the revenue authorities.” (sic.)

7. From the above referred order, it is evident that this Court refused to entertain the challenge in view of the pendency of Regular Civil Suit No.65 of 2010.

8. It is further evident that the writ petition was dismissed and there was no observation recorded by this Court that the revenue entry in the name of respondent No.1 shall not be disturbed till the decision in Regular Civil Suit No.65 of 2010.

9. Thus, the outcome of the above referred order is that this Court refused to entertain any challenge to the orders passed by the Sub-Divisional Officer, Additional Collector and Additional Commissioner passed in favour of the petitioners and correctness of which was under challenge in the said petition.

10. Accordingly, the order of the Sub-Divisional Officer, dated 31/10/2011 was rightly implemented by the Tahsildar and the mutation entries were restored back in the name of the applicants before the Sub-Divisional Officer, in respect of the land in question.

11. However, despite the above referred facts the restoration of mutation entry in the name of petitioners was again a matter of challenge at the behest of the respondent No.1 before the Sub-Divisional Officer, who has interfered with it and cancelled the said entry vide order dated 31/12/2018 and the same was maintained by the Additional Collector, Buldana vide order dated 14/11/2019.

12. Admittedly, since the order of the Sub-Divisional Officer and the Additional Collector, which are impugned in the present writ petition, are the outcome of misinterpretation of the order of this Court dated 13/11/2017, I am of the opinion that both the orders are liable to be quashed and set aside.

13. Accordingly, I pass the following order:

- i) The Writ Petition is allowed.

- ii) The order dated 14/11/2019 passed by the Additional Collector, Buldana and order dated 31/08/2018 passed by the Sub-Divisional Officer, Mehkar are hereby quashed and set aside.
- iii) The trial Court is directed to decide the Regular Civil Suit No.65 of 2010 expeditiously and in any case within six months from today, on its own merits, after hearing the parties.
- iv) The Naib-Tahsildar, Lonar shall restore the entry, as per order dated 03/05/2018, within one month from today.

Rule is made absolute in the above terms. No order as to costs.

(ANIL S. KILOR, J)

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