



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3201 OF 2022

Gopal S/o Dhansingh Rathod .Vs. The Additional Commissioner, Amravati Division,
Amravati and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.M. Tirukh, Advocate for petitioner.

Ms H.N. Jaipurkar, A.G.P. for respondent Nos.1 to 4/State.

CORAM : ANIL S. KILOR, J.

DATED : 03/10/2023

1. Heard Shri Tirukh, learned counsel for the petitioner and Ms Jaipurkar, learned counsel for the respondent Nos.1 to 4/State. None for the respondent Nos.6 and 7 though served.

2. The delay of 41 years in raising the challenge to the mutation entry No.260 of land in question dated 05.04.1975, came to be rejected by the Sub-Divisional Officer and it was maintained by the Additional Collector and thereafter by the Additional Commissioner vide impugned order dated 11.10.2021.

3. The learned counsel for the petitioner submits that, two separate proceedings were filed, one in respect of mutation entry No.260 dated 05.04.1975 and another in relation to mutation entry No.25 dated 23.08.1981 which has been set aside on 27.12.2021 by the Sub-Divisional

Officer, Balapur subsequent to the impugned order dated 11.10.2021.

4. It is submitted that, if the subsequent entries relating to the same land have already been quashed and set aside on merit, the authorities needs to consider the case of the petitioner in light of the said fact. It is therefore, prays to remand the matter for fresh consideration.

5. Admittedly, the cancellation of subsequent entry relating to the same land has taken place subsequent to the impugned order dated 11.10.2021 and therefore, the Additional Commissioner had no occasion to consider the said order or the effect of such order on the present matter.

6. In that view of the matter, I am of the opinion that, the matter needs to be remanded back to the Additional Commissioner to consider the same afresh after taking into consideration the subsequent order dated 27.12.2021 passed by the Sub-Divisional Officer, Balapur. Accordingly, I pass the following order:

- i) The writ petition is **partly allowed**.
- ii) The order dated 11.10.2021 passed by the Additional Commissioner in Revision

No.86/RTS-59/Malrajura/2019-20, is hereby quashed and set aside.

- iii) The matter is remanded back to the Additional Commissioner to decide the same afresh.

Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE