



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

WRIT PETITION NO. 5661 OF 2022

Madhukar S/o Harichand Sawarbandhe,
Aged about 53 years, Occ. Agriculturist
R/o Aasegaon, Tehsil Pauni, Dist. Bhandara

...Petitioner

// VERSUS //

1. State of Maharashtra, through Secretary, Ministry of Revenue and Forest, Mumbai
2. The Additional Commissioner, Nagpur Division, Nagpur
3. The Collector, Nagpur
4. The Sub Divisional Officer, Sakoli, District Bhandara
5. The Tahsildar, Lakhandur, District Bhandara
6. The Talathi, Mandhal Tahsil Lakhendur, District Bhandara
7. Mahesh Narhari Randhive,
Aged about Major Yrs. Occ. Business
R/o Pushpak Complex, Near Sai Baba Temple,
Takiya Ward, Bhandara
8. Chandrashekhar S/o Keshav Kadukar
Aged about 30 years, Occ. Business
9. Sandeep S/o Keshav Kadukar,
Aged about 29 years, Occ. Business
Both 8 and 9 R/o Jivnapur, Tehsil Kuhi, District Nagpur

... Respondents

Shri S.G.Karmarkar, Advocate for the petitioner.

Ms. Mukta Kavimandam, AGP for the respondent nos. 1 to 5.

CORAM : ANIL S. KILOR, J.

DATED : 10th OCTOBER, 2023.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. It is the case of the petitioner that he purchased the land in dispute from respondent nos. 8 and 9 on 25th March, 2015 and in pursuance to the same a mutation entry no. 246 was recorded in his name. However, the same was objected by the respondent no.7 by filing appeal before the Sub Divisional Officer, Sakoli, District Bhandara. The Sub Divisional Officer, Sakoli, District Bhandara vide order dated 30th June, 2016 rejected the appeal which was carried in appeal before the Additional Collector, Bhandara, who allowed the said appeal vide order dated 14th March, 2017 and set aside the mutation entry recorded in the name of the petitioner. The said order was maintained by the Additional Commissioner, Nagpur in revision vide impugned order dated 7th May, 2021. Hence, this petition.

3. There is no dispute that the sale-deed was executed by the respondent nos.8 and 9 in favour of the petitioner and it was the reason for recording the name of the petitioner in the revenue record. The objection was raised to the mutation entry recorded in the name of the petitioner on the ground that the civil suit is pending for specific performance filed by the respondent no.7 against legal heirs of Keshav N. Kadukar i.e. respondent nos. 8 and 9. The Additional Collector, Bhandara set aside the mutation entry in the name of petitioner on the ground that the suit filed by the objector is pending. The order of the

Additional Collector, Bhandara was upheld by the Additional Commissioner, Nagpur, vide order dated 7th May, 2021.

4. Shri Karmarkar, learned counsel for the petitioner has pointed out that the suit for specific performance filed by the respondent no.7 came to be dismissed vide impugned judgment and decree dated 29th September, 2022 and no appeal is filed by the respondent no.7 against the said judgment and decree and hence the said judgment and decree has attained finality.

5. In this matter, though the respondent no.7 is served long back, today nobody appeared on behalf of the respondent no.7.

6. Thus, considering the fact that since now suit is not pending which was the reason for the Additional Collector, Bhandara or the Additional Commissioner, Nagpur to set aside the mutation recorded in the name of the petitioner, I am of the opinion that the petition needs to be allowed by setting aside the order of the Additional Collector, Bhandara and the Additional Commissioner, Nagpur. Accordingly, I pass the following order.

- i. The writ petition is allowed;
- ii. The order dated 14th March, 2017 passed by the Additional Collector, Bhandara and order dated 7th May, 2021 passed by the Additional Commissioner, Nagpur are hereby quashed and set aside and

the order dated 30th June, 2016 passed by the Sub Divisional Officer, Sakoli, District Bhandara is confirmed.

[ANIL S. KILOR, J.]