



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5774 OF 2024

Atul Gajanan Jagtap

VERSUS

The State Of Maharashtra and Others.

...

Advocate for the Petitioner : Mr. D.D. Pande

AGP for Respondents: Mr. V.M. Jaware

Advocate for Respondent 3 : Mr. Anand Bhandari

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 03, 2024

COURT'S ORDER :-

1. The petitioner impugns order dated 8.3.2021 passed in RTS Revision No.840 of 2018 by Divisional Commissioner, Nashik as well as order dated 18.12.2023 passed by the Hon'ble Minister in RTS No.3221 of 2021.

2. The petitioner contends that respondent no.2 was owner of land gat no.84 admeasuring 2H 18R situated at Erandol, District Jalgaon. On 29.7.1976 he converted land admeasuring 1600 Sq meters for non agriculture use. On 21.10.1981, he transferred said land to Chaintex Corporation under registered sale-deed. Consequently, mutation entry No.1441 dated 27.2.1985 was certified. On 17.10.2008 petitioner purchased said land from Chaintex Corporation under registered sale-deed.

Consequently, mutation entry no.10518 was certified in the name of petitioner for 1600 square meters land. Respondent No.2 raised objection to mutation entry No.10518 stating that he sold only 1400 square meters land to Chaintex Corporation. However, mutation entry of 200 square meters excess land has been wrongly made. Consequently, Talathi made corrected mutation entry no.13308 in the revenue record reducing area by 200 sq. mtrs from petitioner's ownership. However, on objection by the petitioner, Circle Officer cancelled mutation entry no.13308 and restored mutation entry no.10518.

3. Respondent No.2 challenged circle officers order in R.T.S. appeal No.17 of 2012 before S.D.O. Said appeal was rejected. Second Appeal filed by respondent no.2 before the Collector, Jalgaon was also rejected. However, in R.T.S. revision No.840 of 2018 filed by the respondent no.2, Divisional Commissioner allowed the appeal by setting aside mutation entry no.10518. The petitioner filed revision before the Hon'ble Minister. Hon'ble Minister confirmed the order passed by the Divisional Commissioner.

4. Learned counsel appearing for the petitioner submits that the sale-deed dated 17.10.2008 clearly depicts that the petitioner has purchased land admeasuring 1600 square meters under the registered sale deed. Accordingly, mutation entry no.10518 was certified

in his favour. However, on the basis of objection raised by respondent no.2, Talathi recorded mutation entry no.13308 reducing the area of land to 14R in the name of petitioner. However, on his objection to such unauthorized change, mutation entry no.10518 was restored by the Circle Officer. Respondent no.2, without legal right raising claim that petitioner is entitled only to 1400 sq. meters land as against the area of 1600 sq. meters shown in his sale-deed.

5. Learned counsel appearing for the petitioner submits that N.A. order as regards to gat no.84 depicts total area of 2H 18R and after purchase of 16R land by the petitioner, area of 2H 02R is shown in the name of respondent no.2. As such, he contends that there cannot be dispute regarding petitioner's ownership on 1600 square meters land as per sale-deed. Therefore, he urges to restore mutation entry no.10518 which has been erroneously upset by order of Divisional Commissioner and Hon'ble Minister.

6. Per contra, Mr. Bhandari, learned advocate appearing for respondent no.3 on the basis of contents of affidavit-in-reply filed by the respondent no.3 submits that N.A. permission dated 29.7.1976 was granted for industrial purpose for area admeasuring 16R, which includes area occupied for Well admeasuring 02R. Original owner Shivnarayan Manudhane had relinquished

his right in favour of Sharad Manudhane. He would further submit that, in fact, registered sale-deed dated 23.10.1981 was for 14R land by which M/s Chaintex Corporation had acquired ownership and received the possession. Mutation Entry no.1441 was recorded for area of 14R land in pursuance of the registered sale-deed dated 23.10.1981. However, M/s Chaintex Corporation, without any authority, transferred land admeasuring 16R in the name of Petitioner vide registered sale-deed dated 17.10.2008. Consequently, mutation entry of 16R was erroneous. Mr. Bhandari would point out that validity of sale-deed dated 17.10.2008 is assailed in Special Civil Suit No.342 of 2011 filed by respondent no.3 before Civil Judge S.D. Jalgaon. He would therefore urge to dismiss writ petition.

7. Having considered the submissions advanced, apparently, petitioner is claiming his right through M/s. Chaintex Corporation, who purchased the land out of gat no.84 from the original owner/Sharad Manudhane. Consequently, mutation entry no.1441 was recorded on 27.2.1985. Petitioner purchased property from M/s Chaintex Corporation under registered sale-deed dated 17.10.2008. Consequently, mutation entry no.10518 was recorded in petitioner's name. It is, therefore, clear that petitioner would derive title of land that was owned by Chaintex Corporation. When, learned advocate appearing

for the petitioner was called upon to point out area under sale-deed dated 21.10.1981 conferring ownership in name of Chaintex Corporation, he would submit that relevant part of the sale-deed has been torned and not traceable. In this background, only because petitioner's sale-deed shows area of 1600 square meters purchased from the Chaintex Corporation, no conclusion can be drawn as to his title on that much area.

8. It is trite that mutation entry does not confer the title and it is only for fiscal purposes. The dispute as regards to ownership of the land and title of the petitioner is now subject matter in Special Civil Suit No.342 of 2011 which is pending adjudication before the competent Civil Court. In this background, it would be appropriate that mutation entry is subjected to final outcome of the suit. In that view of the matter, following order is passed.

ORDER

- i. Writ Petition is dismissed.
- ii Mutation entry in respect of the suit land shall be subject to final decision of the Civil Court between the parties.
- iii. Writ Petition accordingly disposed off. No costs.

(S. G. CHAPALGAONKAR)
Judge.

aaa/-
