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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

34 WRIT PETITION NO. 9802 OF 2024

BABURAO RAMAJI MANDADE

VERSUS

THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR
AND OTHERS

Mr.R.R.Chandak h/f Mr.PN.Kalani, Advocate for the Petitioner.

Mr.S.R.Wakale, AGP for the Respondent/State.

Mr.S.B.Pulkundwar, Advocate for Respondent Nos. 2 and 3.

(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)

DATE : SEPTEMBER 12, 2024

PER COURT :

1. The Petitioner prays that this Court should issue a direction to Respondent Nos. 2 and 3, to decide the representation filed by him, on 17.08.2021.

2. Heard the learned Advocates for the respective sides.

3. The Petitioner's allegation is that Respondent Nos. 5 to 8 have prepared false, baseless, bogus and incorrect documents to grab a portion of the land on which the Petitioner has constructed his own

home. By the representation, the B.D.O. is called upon to decide the appeal preferred by the Petitioner for changing the Gav Namuna (गाव नमुना) No.8, maintained by the Gram Sevak. Respondent Nos. 5 to 8 have preferred RCS No.25/2021, wherein an injunction was sought against the present Petitioner. By an order dated 02.07.2021, the Trial Court has concluded that the plaintiffs have made out a prima facie case and that the Petitioner is trying to dispossess the plaintiffs. If the injunction is not granted, the Plaintiffs would be ousted from the property. The present petitioner has been enjoined by the Trial Court from interfering with the Plaintiff's peaceful possession of the suit property. The suit property includes the house of the present Petitioner. An appeal against the said order is said to be pending.

4. In **Shrikant R.Sankanwar and others Vs. Krishna Balu Naukudkar [2003(3) Bom.C.R.45]**, this Court has concluded that the mutation entries are meant for fiscal purposes. If a dispute reaches the Civil Court, the decision of the Civil Court would bind the Revenue Authorities and Revenue entries will have to be carried out in terms of the decree, and not vice-a-versa.

5. In the present case, the plaintiffs claim that he has constructed the house on a particular portion of land. The original Plaintiffs claim that they are the title holders and they are likely to be ousted by the Petitioner. The Trial Court has injuncted the Petitioner and protected the possession of the Defendants. In such a situation, the decision of the Civil Court would determine the revenue entries. Once such a decision is delivered, the revenue entries can be effected in terms of the said decision of the Civil Court, in view of the law laid down by this Court in **Shrikant Sankanwar** (supra).

6. The learned Advocate for the Petitioner submits that the proceeding initiated by him, seeking alteration in the mutation entries, be decided by the B.D.O. As like before us, even before the B.D.O., there are 2 set of persons. The Petitioner claims ownership over the constructed house and the Respondents claim to be the owners of the land for which the civil suit is pending. The view taken by the Court after the Civil Suit is decided, would bind the revenue authorities and necessary revenue entries can then be effected in the light of such decree of the Court which is, of course, subject to further litigation between the parties.

7. In view of the above, we find that the B.D.O. is not deciding the appeal preferred by the Petitioner since the civil suit between the parties is pending before the Trial Court and the B.D.O. will have to await the decision in the said suit in the light of Shrikant Sankanwar (supra).

8. In view of the above, **this Writ Petition is disposed off.**

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)