



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 WRIT PETITION NO. 10266 OF 2023

Shivaji Dasa Rankhamb

VERSUS

Dada Ashok Rankhamb And Others

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Advocate for the Petitioner : Mr. Y.P. Jadhav

AGP for Respondents: Mr. V S Badakh

Advocate for Respondents 1-3 : Mr. M.B. Kolpe

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 23, 2024

PER COURT :-

1. Heard Mr. Jadhav, learned advocate appearing for the petitioner, Mr. Kolpe, learned advocate appearing for the private respondents and the learned AGP for respondent nos. 4 to 6.

2. By consent of the parties, matter is taken up for final hearing, at admission stage.

3. Mr. Jadhav, learned advocate appearing for petitioners points out that proceeding as regards to the impugned mutation entry was subject matter before the Divisional Commissioner in file No.2022/ROR/Rev/CR-372. The notices were issued to the respondent no.1 therein i.e. petitioner- Shivaji Dasa Rankhamb. His address is mentioned as "*R/o. Takali Bembli, Tq. & District Osmanabad, At present Chandu Salunke, Salunke Galli, Tuljapur, District Osmanabad.*". He would invite attention of this Court to the address of the

petitioner mentioned in the proceeding before the Tahsildar as well as the Sub Divisional Officer, which states as under :-

*Shivaji Dasa Rankhamb,
R/o Takli (Bem.), At Present Padmasingh Nagar,
Sanja Road, Osmanabad.*

4. Mr. Jadhav would further invite attention of this Court to the service report and acknowledgment regarding notice of revision from office of Additional Divisional Commissioner. The notice appears to have been received and acknowledged by Anjali Rankhamb. According to the petitioner, she is wife of the respondent no.1. In that view of the matter, Mr. Jadhav urges that the impugned order is passed by adopting mischief in service of notice. As such, the order is passed behind back of the petitioner and requires to be quashed and set aside.

5. Per contra, Mr. Kolpe, learned advocate appearing for the respondent nos.1 to 3 contends that, in fact, the litigation regarding mutation entry does not survive in view of the supervening events, particularly, the order passed by this Court in Writ Petition No.5317 of 2023 dated 11.10.2023. He would further submit that no purpose would be served by relegating the parties to the Divisional Commissioner.

6. Having considered the submissions advanced, it is apparent that the respondents had moved Tahsildar for grant of mutation. In the said proceeding, address of the petitioner is specifically mentioned as R/o Takali (Bembali) and at present residing at Padmasingh Nagar, Sanja Road, Osmanabad. Same address appears to have been carried

forward even in appeal that was filed before the Sub-Divisional Officer in File No.2020/ROR/A-11. However, when revision application was filed by private respondents before the Divisional Commissioner, address of the petitioner is mentioned as C/o. Chandu Salunke, Salunke Galli, Tuljapur, District Osmanabad and notice was issued and served on same address, which appears to have been acknowledged by one Anjali Rankhamb on 16.1.2023. It is, therefore, evident that notice of proceeding before the Additional Divisional Commissioner in File No.2022/ROR/Rev/CR-372 was never served upon the petitioner and impugned order dated 26.5.2023 has been passed in his absence.

7. In that view of the matter, impugned order cannot be sustained in law. Matter needs to be remitted back for consideration afresh to the Additional Divisional Commissioner. Hence, the following order.

ORDER

- i. Writ Petition is partly allowed.
- ii. The impugned order dated 26.05.2023 passed by Respondent No.4 - The Divisional Commissioner, Aurangabad Division, Aurangabad is hereby quashed and set aside.
- iii. Matter is remitted back to the Divisional Commissioner, Aurangabad for consideration afresh after hearing the parties.

- iv. The parties shall appear before the Additional Divisional Commissioner, Aurangabad on **12th August, 2024.**
- v. On appearance of the parties, the parties shall be at liberty to file written submissions if any, advance their oral submissions and after considering the same, Revision Application be decided as expeditiously as possible and in any case within a period of (10) Ten weeks.

(S. G. CHAPALGAONKAR)
JUDGE

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