



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.12991 OF 2021**

Salehabegum Noorsahab Sayyad

Age- 60 Years, Occu. Household and Agri.

R/o: Gadi Galli, Ahmedpur, Tq Ahmedpur,

Dist: Latur

..Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue Ministry, Mantralaya, Mumbai.

2. Upper Divisional Commissioner,
Divisional Commissioner Office Aurangabad

3. The District Collector,
Collector Office, Latur

4. Sub-Divisional Officer
Collector Office Latur

5. Anwar Jamakhan Akhtar Jamakhan Pathan
Age-59 Years, Occu. Agri.
R/o: Marshivni, Tq. Ahmedpur,
Dist. Latur.

..Respondents

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Mr. R. P. Adgaonkar, Advocate for Petitioner.

R. R. Tandale, AGP for Respondent Nos.1 to 4.

Mr. S. K. Sawangikar, Advocate for Respondent No.5.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 06th SEPTEMBER 2024.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. By the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner impugns order dated 14.12.2018 passed by the Hon'ble Minister, Revenue, Maharashtra State in File No.अपिल

२०१८/प्र.क्र.३३३/ज-७ अ.

3. Mr. Adgaonkar, learned Advocate appearing for petitioner submits that petitioner purchased land Survey No.39/1/2 situated at village Marshivani, Tq. Ahmedpur, Dist. Latur vide registered sale deed dated 19.05.1994. Consequently, Mutation Entry No.341 was sanctioned in his favour vide order dated 01.07.1994. The respondent no.5, who is son of petitioner's vendor assailed Mutation Entry in the year 2008 by filing Appeal before Sub Divisional Officer. However, said Appeal was dismissed vide order dated 11.02.2009. Even Second Appeal filed before the Collector came to be dismissed on 09.11.2009. On 10.06.2013, Revision Application filed by respondent no.5 before the Deputy Commissioner, Aurangabad Division was partly allowed, by which matter was remanded back to the Appellate Authority by setting aside all the orders. Consequently, on 12.11.2013 Talathi sanctioned Mutation Entry No.885. At the same time, petitioner had assailed order of Deputy Commissioner before Hon'ble Minister. The said Revision Application was allowed on 24.06.2014 and order of Deputy Commissioner was set aside. The respondent no.5 then approached this Court by filing Writ Petition No.6829/2014. However, he withdrew Writ Petition on 19.11.2015. Consequently, Mutation Entry No.341 sanctioned in favour of petitioner has attained finality.

4. Mr. Adgaonkar would further submit that since Talathi had certified Mutation Entry No.885 on the basis of order of Deputy Commissioner, which was ultimately set aside by Hon'ble Minister, the petitioner filed Appeal before Sub Divisional Officer challenging said Mutation Entry. The Sub Divisional Officer allowed Appeal of the petitioner on 19.07.2016. The Appeal filed by respondent no.5 before the Collector was also dismissed, however, respondent no.5 preferred Revision before Deputy Commissioner and same was allowed vide order dated 28.05.2018. Although

petitioner approached Hon'ble Minister in Revision, the said Revision Application came to be dismissed on 14.12.2018. Hence, petitioner filed present writ petition.

5. Mr. Adgaonkar would submit that infact Mutation Entry No.341 sanctioned in his favour has attained finality in view of the order passed by Hon'ble Minister dated 24.06.2014, which remained undisturbed after withdrawal of Writ Petition No.6829/2014. He would submit that Mutation Entry No.885 became non-est, since it was based on order of Deputy Commissioner dated 10.06.2013, which has been set aside by Hon'ble Minister in Appeal filed by petitioner vide order dated 24.06.2014. He would submit that Authorities below failed to appreciate aforesaid fact and Mutation Entry No.885 has been illegally maintained without any reason, when Mutation Entry No.341 sanctioned earlier in favour of petitioner has attained finality.

6. Mr. Sawangikar, learned Advocate appearing for respondent no.5 submits that infact parties are litigating before Civil Court for their respective rights and final decision in RCS No.204/2008 would govern rights of the parties.

7. Having considered submissions advanced, apparently petitioner is purchaser of land Survey No.39/1/2 under registered sale deed dated 19.05.1994. The Mutation Entry No.341 dated 11.07.1994 was certified in her favour based on registered sale deed. The said Mutation Entry has attained finality in view of the order dated 24.06.2014 passed by Hon'ble Minister particularly in view of withdrawal of Writ Petition No.6829/2014 filed by respondent no.5. It is, therefore, evident that Revenue Authorities were under obligation to maintain Mutation Entry No.341 certified in favour of petitioner without disturbing revenue record.

8. Pertinently in pursuance of the challenge to the Mutation Entry No.341, learned Deputy Commissioner had passed order of remand dated 10.06.2013 and before the order of Deputy Commissioner was set aside by Hon'ble Minister under order dated 24.06.2014, the Mutation Entry No.885 dated 12.11.2013 was certified in favour of respondent no.5 thereby giving effect to order of Deputy Commissioner. However, once order of Deputy Commissioner dated 10.06.2013 had been set aside by Hon'ble Minister, Mutation Entry No.885 loses its significance and will have to be treated as non-est. Such entry cannot be perpetuated in record. Consequently, Revenue Authorities were under obligation to maintain Mutation Entry No.341 and remove Mutation Entry No.885.

9. So far as rights of the parties are concerned, those are subjudice before Civil Court. The decision of Civil Court would ultimately govern their rights. It is trite that, Mutation Entry is only for fiscal purpose and does not confer title. The issue of title in relation to the land in question will be governed by final decision of Civil Court in pending civil suit. Therefore, in that view of the matter, subject to final outcome of pending suit before Civil Court, Mutation Entry No.341 needs to be maintained in record. Consequently, impugned order cannot be sustained in law. Hence, following order:

ORDER

- a. Writ Petition is allowed in terms of prayer Clause (B).
- b. Mutation Entry No.885 dated 12.11.2013 is quashed and set aside.

- c. The order of Sub Divisional Officer dated 19.07.2016 in File No.2015/ROR/A-19 stands restored.
- d. The aforesaid order is subject to final outcome of Civil Suit pending between the parties.
- e. Writ Petition is disposed of.
- f. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/September-2024