

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5645 OF 2014

Pradeep Motilal Kshatriya
Since Deceased Through Legal Heirs ... Petitioners

V/s.

Shantabai Rambhau Suryawanshi
Since Deceased Through Legal Heirs ... Respondents
& Ors

WITH

WRIT PETITION NO.4478 OF 2014

Motilal Kisansa Kshatriya
Since Deceased Through Legal Heirs ... Petitioners

V/s.

Ashok Rambhau Suryawanshi & Ors ... Respondents

Mr. Sachin Dhakephalkar, for Petitioner in
WP/5644/2014.

Mr. Akhilesh Adhav h/f Mrs. Anjali Neel Helekar, for
Petitioner in WP/4478/2014 and for respondent Nos.2
& 3.

Mr. Jayendra D. Khairnar, for Respondent Nos.1 & 2 in
WP/5645/2014 and for Respondent Nos.1 to 6 in
WP/4478/2014.

Mr. S. L. Babar, AGP for State/Respondent Nos.4 to 7 in
WP/5645/2014 and for State/Respondent No.7 in
WP/4478/2014.

CORAM : AMIT BORKAR, J.

DATED : MARCH 6, 2024

P.C.:

1. **Rule.** Rule made returnable forthwith and heard finally by consent of the parties
2. Both the writ petitions challenge order dated 29 January 2014 passed by respondent No.1, allowing revision application filed by respondent No.1 and setting aside the mutation entry in favour of the petitioner.
3. For the sake of brevity and convenience facts in Writ Petition No.5645 of 2014 are stated. On 1 November 1988, based on Power of Attorney executed by respondent No.1, respondent No.2 executed sale deed in favour of petitioner in the second petition, the predecessor in title of petitioner.
4. On 19 August 1991, based on registered sale deed was effected by Mutation Entry No.4370. After the laps of 9 years, respondent No1 challenged the mutation entry before the Sub-Divisional Authority by filing an appeal. The Sub-Divisional Authority remanded back the appeal to the Tahasildar for enquiry afresh. The petitioner challenged the order of remand back by way of appeal *vide* RTS Appeal No.366 of 2001. On 4 September 2008, the Collector allowed the appeal. Aggrieved thereby, respondent Nos.1 and 2 challenged order of the Collector before the Commissioner who dismissed the revision. Aggrieved thereby, respondent No.1 challenged the order of the Commissioner before respondent No.4. Respondent No.4 by the impugned order has allowed the revision application. Hence, petitioners have, therefore, filed the present writ petitions.

5. On perusal of the impugned order, it appears that respondent No.4 has made observations in favour of petitioners. However, the operative part of the order is against the petitioners. Even otherwise considering the scope of Section 149 of the Maharashtra Land Revenue Code, 1966, the Tahasildar had rightly entered the names of the petitioners in the revenue record, such order could not have been interfered by respondent No.4. Therefore, the impugned order passed by respondent No.4, cannot be sustained.
6. Rule made absolute in terms of prayer clause (a).
7. Both the writ petitions stand disposed of in above terms. No costs.
8. It is made clear that the civil rights of the parties are not adjudicated in the present proceedings and it will be open for the aggrieved parties to file civil suit, if permissible in law to ventilate their rights.

(AMIT BORKAR, J.)