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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10948 OF 2018

Sudhakar Murlidhar Waghmode & Ors. … Petitioners
V/s.
The State of Maharashtra & Ors. … Respondents

Mr. Rahul S. Kadam for the petitioners.

Mr. Sanjay D. Rayrikar, AGP for respondent Nos.1 to 5/ State.

Mr. Sushant S. Prabhune for respondent No.6 (through V.C.)

CORAM : AMIT BORKAR, J.

DATED : JANUARY 2, 2024

P.C.:

1. The petitioners are challenging order passed by respondent No.1 dismissing revision application filed by petitioner No.1 in a proceeding arising out of Section 149 read with Section 150 of the Maharashtra Land Revenue Code, 1966.

2. The original proceeding arose in view of objection raised by petitioner No.1 under Section 150 contending that the vendors of the respondents had no title to confer on the respondents. The Circle Officer by order dated 28 September 2012 certified mutation entry No.5956 in favour of respondent No.6, subject to adjudication done by the Civil Court in Suit No.245 of 2012.

3. Aggrieved thereby, petitioner No.1 filed appeal under Section 247 of the Maharashtra Land Revenue Code, 1966. The Sub-Divisional Officer by order dated 10 May 2014 confirmed the order of the Circle Officer.

4. Aggrieved thereby, petitioner No.1 filed RTS Appeal No.271 of 2014. The Additional Collector, Pune while allowing the appeal, sanction mutation entry No.2671 in favour of petitioner Nos.5 to 7 and cancelled mutation entry No.5956.

5. Aggrieved thereby, respondent No.6 filed Revision Application No.74 of 2016. The Additional Commissioner, Pune Division, Pune by order dated 22 May 2017 set aside order dated 16 February 2016 and confirmed order dated 10 May 2014.

6. Aggrieved thereby, petitioner No.1 filed Revision Application No.3471 of 2017. Respondent No.1 by mutual order confirmed order of the Upper Commissioner, Pune Division, Pune in Revision Application No.74 of 2016. The petitioners have, therefore, filed present writ petition.

7. Learned advocate for respondent No.6 raised preliminary objection contending that petitioner Nos.2 to 7 were not parties before the lower authorities and, therefore, are not entitled to challenge the order passed by the Minister.

8. On perusal of the orders, it appears that the Additional Collector in an appeal filed by petitioner No.1 not only cancelled mutation entry No.5956 but sanctioned mutation entry No.2671. On perusal of the original order, it is evident that petitioner No.1 raised objection for entering names of respondent No.6 in the revenue record. Therefore, subject matter of dispute before the Additional Collector was regarding validity of order passed by the Circle Officer to enter name of respondent No.6 in the revenue record. In such a proceeding, the Additional Collector could not have sanctioned mutation entry No.2671.

9. Learned advocate for the petitioners submitted that the property which is subject mater of dispute before the revenue authority was sold by the father of vendor or respondent No.6 to petitioner No.1. Respondent No.6 purchased same property from the sons of petitioner Nos.5 to 7's vendor and, therefore, on the date of execution of the sale deed in favour of respondent No.6, vendor of respondent No.6 has no title over the suit property. Therefore, mutation entry in that regard could not have been made by the revenue authorities.

10. On perusal of the order passed by the Circle Officer, it is clear that the Circle Officer by order dated 28 September 2012 entered name of respondent No.6 subject to decision in Suit No.245 of 2012.

11. In regard to the inquiry in exercise of power under Section 149 read with Section 150 of the Maharashtra Land Revenue Code, 1966, it is well settled that the authorities holding such inquiry need to ascertain as to whether the documents produced before the revenue authorities apparently disclose acquisition of right in favour of the person applying to enter his name in the revenue record. The power to adjudicate regarding issue of title or right of purpose to immovable property vests with Civil Court and the authorities exercising power under Section 149 read with Section 150 cannot adjudicate as to whether vendor of the sale deed had right to validly transfer title in favour of purchasers. It is well settled that the persons who dispute title of such vendor need to get their right decided before appropriate Court or in case the sale deed is void, to get such declaration from the Civil Court. It is also well settled that the entries made by the revenue authorities in exercise of power under Section 149 read with Section 150 confer no right, title on the parties and such entries are made only for fiscal purposes. Therefore, in my opinion, the approach adopted by the Circle Officer in the facts of the case was correct and proper.

12. If the petitioners are aggrieved by any act of the purchasers, it shall always be open to the petitioners to get their rights adjudicated before the Civil Court and in that case the rights of the parties shall be governed by adjudication of the Civil Court.

13. With this clarification, in my opinion, there is no merit in the writ petition. The writ petition is, therefore, dismissed. No costs.

14. If petitioner Nos.5 to 7 approach revenue authorities for restoration of their entries, the revenue authorities shall decide their application uninfluenced by the observations made by the authorities under the Maharashtra Land Revenue Code, 1966 and in the present order.

(AMIT BORKAR, J.)