

Nikita

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

WRIT PETITION NO.2794 OF 2024

NIKITA
KAILAS
DARADE

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NIKITA KAILAS
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Date: 2024.03.20
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Shridhar Yashwant Karande since
Deceased Through LRS ... Petitioner

V/s.

Dnyandev Vishwanath Dolari Since
deceased and Ors. ... Respondents

Mr. I. M. Khairdi for the Petitioner.

Mr. S. D. Rayrikar, AGP for the State.

Mr. R. M. Haridas i/b Mr. Somnath Thengal for the
Respondent.

CORAM : AMIT BORKAR, J.

DATED : MARCH 19, 2024

P.C.:

1. By this petition under Article 226 of the Constitution of India, the petitioner is challenging judgment and order passed by Minister for Revenue allowing revision application filed by Respondent No.1.

2. According to the petitioner, the Respondent No.1 by registered sale deed purchased property owned by a Trust registered under the provisions of Maharashtra Public Trust Act, 1950 and the trustee who executed the sale deed in favour of respondent No.1 had no authority to execute sale deed in relation

to Trust property. According to the petitioner, therefore, the sale deed was void in nature. Based on such sale deed no right title interest is conferred on respondent No.1 and hence, the Revenue Authorities could not have entered the name of respondent No.1 by holding inquiry under Section 149 and 150 of the Maharashtra Land Revenue Code, 1966.

3. The scope of power of Revenue Authorities in exercise of power under Section 149 and 150 of the Land Revenue Code, 1966 has been decided by Co-ordinate Bench of this Court in the case **Shrikant R. Sankanwar and Ors. Vs. Krishna Balu Naukudkar** reported in (2003) (2) Mh. L.J. 276. The single Judge of this Court has held that the inquiry contemplated under Section 150 of the Maharashtra Land Revenue Code, 1966 in relation to application of mutation entry is to ascertain whether the document produced reveals acquisition of right stated provision acquired in the land in respect of which the mutation entry is applied and it does not empowered the authorities to adjudicate upon title and rights of the parties to the immovable parties.

4. It is also well settled that void sale deed confers no rights on the transferee and it is not necessary to get to seek declaration of sale deed being void (See. Prem Singh Vs. Birbal 2006 5 SCC 353).

5. It is undisputed fact that the application under Section 149 of the Maharashtra Land Revenue Code, 1966 was filed by respondent No.1 based on registered sale deed. In relation to immovable property which was the subject matter of mutation

entry, the Circle Officer under the Maharashtra Revenue Code, 1966 had no power to investigate into right, title and interest of transfer, therefore, entry of respondent No.1 once made in relation to property in dispute cannot be faulted. However, it needs to be clarified that mutation neither creates nor extinguishes substantive rights of parties over the immovable property.

6. Therefore, such adjudication is always subject to the rights of parties being adjudicated by the competent Civil Court who has exclusive power to adjudicate title between the parties.

7. Hence, there is no legal infirmity in the order.

8. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)