
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1255 OF 2024

Krishna Dattu Patil & Ors.

.. Petitioners

Versus

The Tahsildar, Thane & Ors.

.. Respondents

Mr.Kishor Patil a/w Ziyad Madon i/b Pratik Rahade,
Advocates for the Petitioners.

Mr.A.I.Patel, Addl. G.P. a/w R.S.Pawar, AGP for
State/Respondent.

CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE : MARCH 11, 2024

P. C.

1. Rule. With the consent of the parties, Rule made returnable forthwith and heard finally.

2. In the above Writ Petition what is challenged is the Report dated 22nd November, 2022 of the Tahasildar submitted to the Collector refusing to re-record the name of the Petitioner in book of records. The other relief sought is to direct the Revenue Authorities to record the name of the Petitioners in the book of records as it existed earlier.

3. In the facts of the present case, the property in question is Gat/Survey No.135/1 and Gat/Survey No.135/3 situated at village Khairne, Taluka & District Thane (in short “**the suit property**”).

4. To put it in nutshell it is the case of the Petitioners that their Grandfather was in possession of the suit property as a protected tenant, and Mutation Entry No.72 in fact reflected this status. In 1974, by Mutation Entry No.1011, the name of the Petitioners were wrongly removed and the name of CIDCO was inserted in relation to the suit property. This was done on the alleged ground that the suit property was acquired by CIDCO. It appears that CIDCO has written a letter to the Petitioners saying that it has never acquired the suit property, and this letter of CIDCO is also on record at page 30 of the Paper Book. This apart, there is also an earlier Report of the Tahasildar dated 16th June, 2003 stating that CIDCO has never acquired the suit property and the name of CIDCO was recorded by mistake and needs to be rectified.

5. Despite this material, it is the grievance of the Petitioners that the Tahasildar, in the impugned report dated 22nd November, 2022, though accepting that the Petitioner’s ancestors were tenants and in

possession of the suit property; the name of CIDCO was wrongly recorded by deleting the name of the Petitioner's ancestors; and that CIDCO had never acquired the suit property; the Tahasildar is of the opinion that the names of the Petitioners cannot be re-entered in the land records because the owner of the suit property had relinquished its rights in the suit property to the Government.

6. Having heard the learned Counsel for the parties, we find that the reason for not re-entering the names of the Petitioners in the land records is wholly without merit. The names of the Petitioners was removed because the Tahasildar proceeded on the wrong premise that the suit property was acquired by CIDCO.

7. This controversy (regarding acquisition by CIDCO) has now been put to rest as the Tahasildar in the impugned report has also conceded that the suit property was never acquired by CIDCO. Once this is the case, then the Tahasildar cannot refuse to re-enter the name of the Petitioners in the land records as it stood earlier prior to its deletion.

8. In these circumstances, we find that the Petition deserves to be allowed in terms of prayer clause (b) which reads thus:-

"(b) Issue an appropriate Writ Order to direct the Respondent No.1 to 4 to mutate the names of the Petitioner in the capacity of Tenants in respect of the Suit property."

9. Respondent Nos.1 to 4 shall mutate the name of the Petitioners, as it existed prior to its deletion in relation to the suit property, within a period of 2 weeks from today.

10. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof.

11. Though we have disposed of the Writ Petition we place it on board for reporting compliance on 27th March, 2024.

12. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN,J.]

[B. P. COLABAWALLA, J.]