

VRJ

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

WRIT PETITION NO.480 OF 2024

VAIBHAV
RAMESH
JADHAV
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Savitribai Balaram Kadam
Since Deceased Through Legal Heirs ... Petitioners

V/s.

The Additional Commissioner, Konkan
Division & Ors. ... Respondents

WITH

WRIT PETITION NO.478 OF 2024

Savitribai Balaram Kadam
Since Deceased Through Legal Heirs ... Petitioners

V/s.

The Additional Commissioner, Konkan
Division & Ors. ... Respondents

Mr. Jayesh Joshi for the petitioners.

Mr. Amit Chavan with Ms. Dipti Patole and Mr. Yogesh
Patil for respondent No.3.

Ms. V. S. Nimbalkar, AGP for the State/respondent
Nos.1 and 2.

CORAM : AMIT BORKAR, J.

DATED : MARCH 26, 2024

P.C.:

1. The petitioners have challenged the order passed by the Additional Commissioner refusing to exercise his revisional powers mainly on the ground that the petitioners who filed an application

to bring themselves as legal representatives of one of the party to the revision on record to get legal heir certificate from the Civil Court and, therefore, adjourned the revision application sine die. This approach on the part of the Additional Commissioner amounts to failure to exercise statutory power. Once the person approaches the authority under section 257, it is the duty of Revisional Authority to adjudicate rights of the parties within the parameters laid down by this Court and by the Apex Court interpreting sections 149 and 150 of the Maharashtra Land Revenue Code, 1966. Law in this regard is already settled as the only scope of inquiry is to ascertain whether the document, based on which the applicant makes an application under section 149, discloses acquisition of right, title and interest in the immovable property.

2. It is also well settled that any adjudication made by the revenue authorities under sections 149 and 150 of the Maharashtra Land Revenue Code, 1966, do not affect substantive rights of the parties over immovable property. Therefore, the adjudication including decision on the heirship of the party is not conclusive. Such adjudication is relevant for the purpose of adjudication of limited rights conferred under the provisions of the Maharashtra Land Revenue Code, 1966. Therefore, the approach of Additional Commissioner of adjourning the revision application by directing petitioners to get legal heirship certificate from Civil Court amounts to failure to perform statutory duty conferred under section 257 of the Maharashtra Land Revenue Code, 1966.

3. Hence, following order:

- a) The impugned order dated 20th June 2023 passed by the Additional Commissioner, Konkan Division, in Revision Application Nos.197 of 2020 and 227 of 2020 is quashed and set aside.
 - b) The Revision Application Nos.197 of 2020 and 227 of 2020 are restored to the file of the Additional Commissioner.
 - c) The Additional Commissioner shall decide the rights of the petitioners as to whether they are legal representatives or not and upon such adjudication shall decide revision application on merit.
4. The writ petitions stand disposed of in above terms. No costs.

(AMIT BORKAR, J.)