

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

WRIT PETITION NO.840 OF 2024

Heramb Pandharinath Gupchup (Since Deceased)
Through LRs. : Dilip Puroshotam Gupchup and Ors. .. Petitioners
Vs.

Gavkamgar Talathi, Tathawade,
Tal. Mulshi, Dist. Pune and Ors. .. Respondents

Mr. Surel Shah with Mr. Ravi V. Asabe and Mr. Vinod Shinde, Advocates for the Petitioners.

Mr. N.C. Walimbe, Additional Government Pleader, with Ms. M.S. Srivastava, Assistant Government Pleader, for the Respondent-State of Maharashtra.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 11TH JULY, 2024.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. RULE. Rule made returnable forthwith. The Assistant Government Pleader waives notice for respondent nos.1 to 9. Service on respondent no.10 is dispensed with.

2. The grievance raised by the petitioners, who are the legal heirs of one Shri. Heramb Pandharinath Gupchup is that the Tahsildar on 12th October 2023 has passed an order that affects their legal rights without hearing them. As per the said order, the Tahsildar has directed that the Revenue Records pertaining to land bearing Survey Nos.20 and 21 at Mauje Tathawade, Taluka Mulshi, District Pune has been directed to be rectified so as to suite the claim of respondent no.10 in the Revenue Records. Reference has been made to the provisions of Sections 149 and 150 of the Maharashtra Land Revenue Code, 1966.

3. In the affidavit filed by the 3rd respondent – Tahsildar, it has been stated that the petitioners did not submit any documents to indicate their rights as legal heirs of the deceased owner – Shri Heramb Gupchup. The learned Additional Government Pleader submits that the petitioners have an alternate remedy under the Maharashtra Land Revenue Code, 1966 to challenge the impugned order.

4. Having heard the learned counsel for the parties and having perused the documents on record, we find that even according to the respondents, the name of the petitioners' predecessors are shown in the Revenue Records till 1945-46. Though an award was passed on 3rd February 1966 under the Land Revenue Code, 1896, Survey No.20 was not the part of the acquired land. It is on this premise that the Tahsildar ought to have heard the petitioners, who claim right in Survey No.20, before directing the mutation entries to be rectified. Admittedly, the petitioners claiming to be heirs of Shri. Heramb Gupchup were not heard before passing the impugned order. Hence, a case for consideration by this Court has been made out.

5. In this backdrop, we find that the interest of justice would be served by directing the Tahsildar to hear the petitioners before any decision is taken to alter the mutation entries pertaining to Survey No.20. All relevant material including the aspect of petitioners' entitlement can be considered by the Tahsildar within the limits of jurisdiction conferred on him. Accordingly, the following order is passed :-

- (i) The order dated 12th October 2023 passed by the Tahsildar, Taluka Mulshi, District Pune is set aside insofar as Survey No.20 is concerned since it has been passed without any notice to the petitioners.

- (ii) The petitioners shall appear before the Tahsildar with all relevant records on 26th July 2024 at 11:30 a.m.
- (iii) The Tahsildar shall consider all relevant records and after hearing the petitioners, take a decision in the matter of the said mutation entries.

6. Keeping all contentions raised on merit open, the Writ Petition is disposed of in the aforesaid terms. Rule accordingly with no order as to costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]