

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 12264 OF 2024

Raakesh Rajendrakumar Agarwal

.. Petitioner

Versus

The Additional Commissioner,
Kokan Division, Mumbai & Ors.

.. Respondents

.....

- Mr. Kishor Patail i/by Mr. Amol P. Mhatre for Petitioner
- Ms. M.S. Srivastava, AGP for Respondent Nos. 1 to 3 & 16

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 24, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 24.04.2024. Heard Mr. Patil, learned Advocate for Petitioner and Ms. Srivastava, learned AGP for Respondent Nos. 1 to 3 & 156.
3. Present Writ Petition takes exception to the order dated 02.04.2024 passed under the provisions of Section 155 of the Maharashtra Land Revenue Code, 1966 on the ground that the said order transgresses the statutory provisions and directs mutation of the revenue record in the name of Respondent No. 4 on the basis of his possession. After two weeks of passing of the said order, Mr. Patil would inform and contend that Petitioner has been informed by the Tahsildar that the appropriate precept has been sent to the Circle Officer to execute and implement the order and for calling for a report

thereon. He would contend that a substantive challenge is maintained to the impugned order primarily on the ground that the powers to be exercised under the provisions of Section 155 of the Maharashtra Land Revenue Code are restrictive in nature and cannot be allowed to be carried out and correct mutation entries in the revenue record. He would submit that Petitioner's apprehension is that if such mutation entry / entries are effected, Petitioner's substantive rights shall be affected and that apart Petitioner would have also to maintain a fresh challenge in revenue proceedings under the law.

4. I have perused the order dated 02.04.2024 with the able assistance of Mr. Patil. Considering the substantive challenge maintained to the said order by filing the present Petition, an arguable case is made out by Mr. Patil for issuance of notice and immediate stay to the execution of the said order. Hence the impugned order dated 02.04.2024 shall not be implemented by the Tahsildar or any other Officer under him if it has not been implemented. Needless to state that Respondents shall be adequately heard by this. If Respondents are able to satisfy this Court, then this Court shall pass appropriate orders.

5. Issue notice to the Respondents made returnable on 10.06.2024. Learned AGP waives service for Respondent Nos. 1 to 3 & 6. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve

copy of the Petition along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date. After receiving the notice, Respondents to file affidavit-in-reply within a period of two weeks from today, if so desired with an advance copy to the Advocate for Petitioner. Rejoinder, if any, shall be filed one week thereafter.

6. Respondents are directed to remain present either themselves or through their Advocate on the next adjourned date. It is made clear that if Respondents remain absent despite service on the next adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of the Respondents.

7. Copy of this order shall be placed before the Tahsildar for compliance by Petitioner.

8. Stand over to **10th June, 2024.**

9. Liberty to the parties to apply in case of any difficulty or emergency.

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[MILIND N. JADHAV, J.]

Digitally
signed by
RAVINDRA
MOHAN
AMBERKAR
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