



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

WRIT PETITION NO.10955 OF 2024

Ganesh Bhagwan Lahane

.. Petitioner

Vs.

Sub Divisional Officer Cum Managing
Officer & Ors.

.. Respondents

...
Mr. Girish R. Agrawal with Ms. Naina P. Boraste, Advocates for
the petitioner.

Ms. Kavita N. Solunke, Assistant Government Pleader for the
respondent-State.

...

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

DATE : 22nd NOVEMBER, 2024.

P.C. :

1. Heard. The petitioner seeks to raise a challenge to the communication dated 05/04/2024 issued by the City Survey Officer, Ulhasnagar thereby directing the petitioner to avail the remedy under the provisions of the Maharashtra Land Revenue Code, 1966 with regard to his request for undertaking measurement of C.T.S. No.10734, Barak No.604, Room No.9 at Kalyan Camp No.2.

2. It is the case of the petitioner that the aforesaid property was the subject matter of allotment under a Deed of Conveyance -Sanad dated 21/06/1960 under the provisions of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. After the

Sanad in that regard was issued, the same was forwarded to the Office of the Sub-Registrar, Kalyan for registering the same in the name of the allottee. However, the necessary Mutation Entries were not carried out in the revenue records. The legal heirs of the allottee sold the said property in favour of one Shri Chetan Tilwani on 13/04/1998. The said Shri Chetan Tilwani sold the said property to the petitioner by Registered Sale Deed dated 01/07/2011. The petitioner therefore sought mutation of his name in the revenue records.

3. The petitioner moved two applications dated 04/03/2024 and 03/04/2024 before the City Survey Office for having his name mutated in the revenue records. By the communication dated 05/04/2024, he was informed that as the allotment of the land was made prior to 1960 and the name of the State Government had been recorded in the revenue records, it would be necessary to challenge the said mutation entries. Being aggrieved by this communication, the petitioner has challenged the same.

4. We have heard the learned counsel for the petitioner as well as the learned Assistant Government Pleader for the respondents. We have perused the documents on record as well as affidavit in reply filed by the City Survey Officer. It appears that while issuing the impugned communication dated 05/04/2024, the provisions

of Section 149 of the Maharashtra Land Revenue Code, 1966, (for short, 'the Code') have not been taken into consideration. In accordance therewith, after any land is allotted pursuant to issuance of a Sanad by the Collector, there is no obligation to make a report to the Talathi. Though the Conveyance Deed was forwarded to the Office of Sub-Registrar, Kalyan, the necessary entries in the revenue records were not taken. As a result, the subsequent Mutation Entries indicating change of title could not be effected.

5. The impugned communication dated 05/04/2024 refers to the Sanad issued on 21/06/1960. It however without considering the provisions of Section 149 of the Code requires the petitioner to file proceedings under the Code. In our view, it would be necessary for the City Survey Officer to take into consideration the provisions of Section 149 of the Code while deciding the petitioner's applications dated 04/03/2024 and 03/04/2024. Without doing so, the applications have been decided. For this reason, it is necessary to direct the City Survey Officer to reconsider the said applications.

6. Accordingly, the following order is passed:-

- i) The impugned communication dated 05/04/2024 is set aside.

ii) The City Survey Officer shall re-consider the petitioner's applications dated 04/03/2024 and 03/04/2024 afresh in accordance with law after taking into consideration the provisions of Section 149 of the Code.

iii) The needful be done within a period of six weeks of receiving copy of this order. The writ petition is disposed of in aforesaid terms. There would be no order as to costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]