



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

64 WRIT PETITION NO. 55 OF 2025

SHAIKH RASOOL SHAIKH CHAND

VERSUS

ADDITIONAL COMMISSIONER NO. 2 AND ORS

...

Mr. Balaji S. Chondhekar, Advocate for the Petitioner

Mr. P. S. Patil, AGP for Respondents State

Ms Rakhi V. Sundale, Advocate for Respondent No.3

Mr. P. Y. Sarnaik, Advocate for Respondents 4 & 5

WITH

CIVIL APPLICATION NO. 4189 OF 2025

IN WP/55/2025

SURWANTABAI VITTHAL UKARE

VERSUS

SHAIKH RASOOL SHAIKH CHAND AND OTHERS

CORAM : Y. G. KHOBRADE, J.

Dated : 8th December, 2025

ORDER :-

1. Rule. Rule made returnable forthwith and by consent of both sides, the petition is heard finally at the stage of admission.

2. By the present petition, the petitioner challenges the order dated 11.07.2024 passed by Respondent No.1- Additional Commissioner No.2 Chhatrapati Sambhajinagar, in Revision bearing No.2003/ROR/Rev/ Restoration/CR/152/Ori./Case/140/2022, whereby the appeal of the original applicant i.e. present Respondent No.3 allowed and the order dated 23.07.2021 about

effecting Mutation Entry No.2956 passed by Respondent No.2-Additional District Collector, Beed has been quashed and set aside.

3. Learned counsel for the petitioner invited attention of this Court to the findings recorded by the learned Additional Commissioner No.2 that non applicant (present petitioner) remained absent though sufficient opportunity was granted and passed the impugned order, ex-parte.

4. Learned counsel appearing for Respondent No.3 canvassed in vehemence that after service of notice, the present petitioner had appeared before the Additional Commissioner/ Respondent No.1 through his counsel Advocate Shri V. D. Shinde on 01.06.2022. However, subsequently, the counsel for the petitioner/original non applicant never appeared in the matter and therefore, ultimately, the learned Additional Commissioner No.2 passed the impugned order, which is justifiable.

5. Needless to say that on 11.07.2024, learned Additional Commissioner No.2 passed the impugned order and allowed the appeal filed by present Respondent No.3-Surwantabai Vitthal Ukare and set aside the order of Mutation passed by Respondent

No.2 dated 03.07.2021. However, the findings recorded by the learned Additional Commissioner show that though original non applicant/present petitioner was granted sufficient opportunity, he did not appear. Therefore, it shows that the impugned order passed by Respondent No.1-Additional Commissioner No.2 is ex-parte. The present petitioner is required to be given one more opportunity to put-forth his case before Respondent No.1, however, for the act of the present petitioner, the original applicant/Respondent No.3 is suffered. Therefore, Respondent No. 3 can be compensated by imposing cost on the petitioner, to be paid to Respondent No.3.

6. In view of the above discussion, the impugned order dated 11.07.2024 passed by Respondent No.1 Additional Commissioner No.2, in Revision bearing No.2003/ROR/Rev/Restoration/CR/152/Ori./Case/140/2022 is hereby quashed and set aside, subject to payment of cost of Rs.25,000/- to be made by the petitioner to Respondent No.3 within two weeks from today.

7. The matter is remanded back to the Additional Commissioner No.2/ Respondent No.1 for a fresh decision on merit. Both parties shall appear before the Additional

Commissioner No.2/ Respondent No.1 on 22.12.2025 at about 11.00 a.m. Thereafter, the learned Additional Commissioner shall decide the matter, as early as possible and preferably, within a period of three months therefrom.

8. Rule is accordingly made absolute.
9. Pending civil application stands disposed of.

(Y. G. KHOBRADE, J.)

JPChavan