IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4745 OF 2020

Ashok Mohanlal Agrawal ....Petitioner

VERSUS

Additional Divisional Commissioner
Nashik Division & others .....Respondents

.....

Mr. R. V. Gore, Advocate for the Petitioner.
Ms. R. R. Tandale, AGP for the State.
Mr. M. G. Patil, Advocate for Respondent Nos. 2 and 3.

CORAM : R. M. JOSHI, J.
DATE : 25th JULY, 2025.

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the order dated 28.03.1990 passed by the Additional Divisional Commissioner, Nashik Division, Nashik in Case No. RTS/Revision/858/2018 and order dated 31.08.2018 passed by the Additional Collector, Jalgaon in Case No. Appeal/308/2015 confirming the order passed by the Sub

Divisional Officer, Busaval dated 27.12.2013 in Case No. Land/NA/SR/111/13.

3. The facts which led to filing of this Petition can be narrated in brief as under :-

According to Petitioner, Mohanlal Agrawal, father of Petitioner and Respondent No. 2 owned the properties including the suit property i.e. Gat No. 430 situated at Mouje Bodwad, District Jalgaon. Mohanlal died on 29.05.1998. Partition was effected of the properties of Mohanlal during his lifetime and when the Petitioner and Respondent No. 2 were minor, mutation entry bearing No. 12552 came to be recorded. On 04.10.2012, name of Respondent No. 3 i.e. wife of Respondent No. 2 came to be mutated in the record along with Respondent No. 2 vide mutation entry No. 22405. Petitioner and Respondent No. 10 filed appeal before the Sub Divisional Officer taking exception to the mutation entry Nos. 12552 and 22405. In the proceeding bearing No. Land/NA/SR/111/13, the Sub Divisional Officer by order dated 27.12.2013 rejected the appeal preferred by Petitioner and Respondent No. 10 against the said mutation entries. This order was further taken exception before the Additional Collector, Jalgaon under Section 247 of the Maharashtra Land

Revenue Code. Said authority dismissed the appeal by order dated 31.08.2018. Revision against the said order is pending before the Additional Divisional Commissioner.

4. In the meantime, Respondent Nos. 2 and 3 obtained NA permission in respect of the subject land from the competent authority. Petitioner is aggrieved by the said order of conversion of agricultural land into non-agricultural. It is the case of the Petitioner that petitioner is one of the owners of the subject property and without conducting due enquiry as contemplated by Section 44 of the Maharashtra Land Revenue Code, order of conversion of land came to be passed. It is his further contention that since challenge to the mutation entry No. 12552 was within knowledge of the authority, without hearing Petitioner no order ought to have been passed by the authority concerned.

5. Learned counsel for the Respondents supported the impugned order.

6. There is no doubt about the fact that in view of Section 44 of the code, the authority is required to conduct due enquiry befor

passing order of conversion of land from agriculture to non-agriculture use. A specific query was put to learned counsel for the Petitioner as to whether any rules are framed with regard to conduct of such enquiry, the answer thereto is in negative. Thus, it is clear that no specific procedure has been laid down for conducting an enquiry in this regard. Suffice it to say that the enquiry must be restricted to the extent that there is locus standi with Applicant seeking conversion of use of land and that there is no legal embargo for doing so.

7. Reverting back to the facts of the present case, there is no dispute about the fact that during the life time of Mohanlal mutation entry No. 12552 was effected on 08.04.1976. The said entry is effected on the basis of partition of properties of Mohanlal to his sons. This mutation entry has been sought to be challenged by the Petitioner after about a period of 40 years. The said challenge as of date is unsuccessful, though revision is pending before the state authority. Thus, as a matter of fact, it is not in dispute that the mutation entry in question is intact as of date.

8. Said mutation entry is effected in 1976. There was no challenge to the said entry for about 40 years. Needless to say that the Petitioner even after attaining age of majority has not challenged the said entry. Thus, prima facie, it could be safely said that the said entry has been taken on the basis of partition of properties effected by Mohanlal in favour of his sons.

9. Now question arises as to what could be the due enquiry as contemplated by Section 44 of the Code. Pertinently, said enquiry is regarding conversion of agricultural land to non-agricultural use. In the instant case, the material evidence on record before the authority clearly indicate that Respondent No. 2 has become owner of the subject property in view of partition effected by Mohanlal way back in the year 1976. Admittedly, the said entry has not been challenged by the competent authority. In such circumstances, the said satisfaction of the revenue authority as to the ownership of Respondent No. 2 and into his locus for seeking conversion of land was sufficient enquiry. In respect of the conversion of land for agriculture to non-agriculture, it is not shown as to any legal impediment in such conversion.

10. Merely because the authority is the same before whom mutation entry bearing No. 10552 was challenged does not become a ground/reason for the authority to issue notice to Petitioner. Even as of today, the Petitioner has failed to substantiate his contention of having any interest in the subject property. As a result of this, there is no merit in the petition. Petition stands dismissed.

(R. M. JOSHI)
Judge

dyb