

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14355 OF 2017

Shivaji Namdev Bedre And Others

VERSUS

Sayyad Rasul Sayyad Nawaz Died Through Lrs Sayyad Yusuf Rasulsab
And Others

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Advocate for the Petitioners : Mr. K.M. Nagarkar h/f Mrs. Kulkarni
Smita S.

AGP for Respondent/State : Mr. PD Patil

Advocate for Respondent Nos.1A to 1D, 3(1) to 3(5), 2(1) to 2(6) :
Mr. U.B. Bilolikar

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JUNE 11, 2025

PER COURT :-

1. The present petition takes exception to order dated 20.09.2017 passed by learned Civil Judge Senior Division, Mukhed by which following issue was framed :

“Issue No.2A - Whether Mutation Entry No.680 is legal ?”.

2. Mr. Nagarkar, learned advocate appearing for petitioners vehemently submits that Mutation Entry No.680 was already subjected to challenge before revenue authorities in appeal which has been culminated into final order passed in Writ Petition No.1800 of 2008. This Court disposed of said writ petition with observations that right of parties as to the suit property can be decided in appropriate civil proceeding. He would further submit that the issue as framed cannot be sustained under law as the Civil Court sans jurisdiction to

ponder into legality of mutation entry. He would therefore urge that the impugned order be quashed and set aside.

3. Per contra, Mr. Bilolikar, learned advocate appearing for respondents submits that the issue is framed in particular facts and circumstances of the case. The mutation entry is erroneously taken misinterpreting decision in Second Appeal No.115 of 1986. Therefore, the issue as framed would be necessary for effective adjudication of dispute between the parties.

4. Having considered the submissions advanced and looking to the wordings of impugned issue, it is apparent that the Civil Court would have no jurisdiction to delve into correctness of mutation entry and rule on decision of revenue authorities. However, Civil Court can definitely observe that such mutation entry is ineffective and does not bind the parties but the wording of the issue framed suggest that Trial Court would rule of decision of revenue authority which cannot be countenanced. If such issue is allowed to exist, the Civil Court will have to enter into legality, validity of mutation entry which would be beyond jurisdiction of the Civil Court.

5. In that view of matter, the impugned order is quashed and set aside. However, in case the plaintiff makes a fresh application for framing appropriate issue in terms of aforesaid observation, such an application may be considered on its own merit without impeded by this order.

6. Writ Petition stands allowed and disposed of in aforesaid terms.

(S.G. CHAPALGAONKAR, J.)