**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 249 OF 2024

Kailas S/o Arjun Mhaske
Age: 36 years, Occ: Agri.,
R/o. Bahegavhan, Tq. Wadwani,
Dist. Beed

…..**PETITIONER**

VERSUS

1. The State of Maharashtra
Through its Secretary Revenue and Forest
Department, Mantralaya, Mumbai-32.
2. The Additional Divisional Commissioner No.2
Aurangabad
3. The Additional Collector, Ambajogai,
Dist. Beed
4. The Sub Division Officer, Majalgaon,
Tq. Majalgaon, Dist. Beed.
5. The Tahsildar,
Tahsil Office, Wadwani,
Dist. Beed.
6. The Circle Officer,
Circle Officer, Wadwani,
Tq. Wadwani, Dist. Beed
7. Arjun s/o Kondiba Chate
Age: 73 years, Occu: Agril,
R/o Wadwani, Tq. Wadwani,
Dist. Beed
8. Shankar s/o Balasaheb Chate
Age: 26 years, Occu: Agri.,
R/o. Wadwani, Tq. Wadwani,
Dist. Beed.

…..**RESPONDENTS**

Mr. A. V. Lavte & Mr. V. D. Salunke, Advocate for the Petitioner
Ms. Kalpalata Patil Bharaswadkar, Addl. GP for Respondents-State
Mr. S. V. Jadhavawar, Advocate for Respondent nos.7 and 8

CORAM : ROHIT W. JOSHI, J.
DATED : 23RD JUNE, 2025

ORAL JUDGMENT :-

. The respondent no.7 is grandfather of respondent no.8. The respondent no.8 has executed a sale deed dated 16.06.2016 in favour of the present petitioner. Pursuant to the said sale deed, name of the petitioner is recorded as owner of the suit property in the revenue record vide mutation entry no.8744, which is recorded on 04.10.2016. It will be pertinent to mention that the suit property was recorded in the name of the respondent no.8 and the name of his grandfather/respondent no.7 was mentioned as his guardian, the respondent no.8 being a minor.

2. This entry is ordered to be deleted vide mutation entry no.8716, which is recorded on 18.07.2016, holding that since the respondent no.8 has attained majority, the name of his grandfather/respondent no.7 be deleted as guardian of the minor. Perusal of the relevant mutation entry indicates that the name of grandfather is deleted on an application made by the respondent no.8.

3. It will be pertinent to mention here that the respondent no.7/grandfather had filed the suit challenging the alienation made by the respondent no.8, his grandson in favour of the petitioner vide sale deed dated 16.06.2016 in Special Civil Suit No.13 of 2016, contending that the respondent no.8/grandson was minor on the date of execution of sale deed.

4. The controversy revolves around the correct date of birth of the respondent no.8.

5. After the sale deed was executed and the mutation entry was recorded in the name of petitioner, the respondent no.8 did not challenge the same. However, the respondent no.7 challenged the mutation entry by filing an appeal, which came to be allowed vide order dated 22.11.2017. This order passed by the Sub Divisional Officer was unsuccessfully challenged by the petitioner by filing an appeal before the Deputy Collector, which came to be dismissed vide order dated 31.10.2018. The first Revision Application filed by the petitioner came to be rejected vide order dated 08.12.2021 passed by the Additional Divisional Commissioner,

Aurangabad. The second revision preferred before the State is also dismissed vide order dated 23.11.2023, passed by the Additional Chief Secretary, Department of Revenue and Forest. These orders are impugned in the present petition.

6. Perusal of the sale deed will demonstrate that the identity card issued by Election Commission of India was annexed with the sale deed, in which the date of birth of the respondent no.8 is recorded as 01.01.1996. The relevant extract of voters list of the year 2018 for assembly segment 229 is also a part of the sale deed in which the age of respondent no.8 is mentioned as 22 years.

7. The respondent no.7 and 8 have filed affidavit-in-reply contending that the correct date of birth of the respondent no.8 is 23.10.1998 and not 23.10.1997. Alongwith reply affidavit, documents such as Pan Card, issued by Income Tax Department, Secondary School Certificate, Aadhaar Card, etc., are filed to contend that the date of birth of the respondent no.8 is 23.10.1998 and as such as on the date of execution of sale deed, the age of petitioner was around 17 years and 08 months and as such the sale deed which was executed while

the respondent no.8 was minor is void *ab-initio*.

8. Perusal of the reply affidavit filed by the respondent nos.7 and 8 will demonstrate that there is no comment with respect to the documents in respect to date of birth of petitioner, which are appended to the sale deeds as annexures.

9. That apart, as mentioned above, a Civil Suit was filed by the respondent no.7 challenging the sale deed, which is already dismissed in default. It is well settled that mutation entries do not decide questions of ownership. If at all the respondent nos.7 and 8 want to get rid of the sale deed, they should challenge the same and have it rescinded from a competent Civil Court. It is undisputed that the respondent no.8 has not challenged the sale deed.

10. In view of the above and particularly having regard to the fact that the entry of the grandfather as guardian of respondent no.8 was deleted at the behest of respondent no.8 on 18.07.2016, which implies that he had attained majority as on that date, coupled with the fact that the documents showing age which are annexed with the sale deed are not

countered in the reply affidavit, as also, having regard to the fact that a substantive Civil Suit challenging the alienation in favour of petitioner is already dismissed in default, in my considered opinion, petition deserves to be allowed by quashing and setting aside orders dated 29.11.2023, 08.03.2023, 08.12.2021, 31.10.2018 and 22.11.2017 and restoring mutation entry no.8744 recorded in the name of the petitioner.

11. Needless to mention here that the mutation entry will be subject to adjudication of any civil dispute with respect to the sale deed dated 16.06.2016 between the parties.

12. Writ petition is **disposed** of accordingly.

13. Pending Civil Applications, if any, stand disposed of.

(ROHIT W. JOSHI, J.)

Rushikesh/2025