

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1336 OF 2022

Avinash A. Jagtap and Ors.

.. Petitioners

Versus

State of Maharashtra and Ors.

.. Respondents

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- Mr. Atul Damle, Senior Advocate a/w. Mr. Suryajeet Chavan and Ms. Vishakha Shelar, Advocates i/by One Legal Bay LLP for Petitioners.
- Mr. Sanjay D. Rayrikar, AGP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.

DATE : JULY 16, 2025

P.C.:

1. Heard Mr. Damle, learned Senior Advocate for Petitioners and Mr. Rayrikar, learned AGP for Respondent – State.

2. Considering the controversy which is emanating before this Court by virtue of present Writ Petition pertaining to rejection of Petitioners' case of deletion of the name of Petitioners' predecessor in title *qua* Mutation Entry dated 2015, the submissions made by Mr. Damle *prima facie* refer to disputed questions of fact.

3. Mr. Damle has vehemently argued that case of Respondents is that Petitioners' land has not been acquired but reading of order passed by Competent Authority at the threshold under Section 247 of the Maharashtra Land Revenue Code, 1966 appended at Exhibit-A, page No.16 of the Petition, *prima facie* shows that mutation entry *qua*

the Petitioners' predecessor-in-title was wrongly entered into and for the sake of correcting the same *suo moto* action was initiated and the said mutation entry was deleted.

4. That apart, it is seen that the deletion of Mutation Entry of which Petitioners are aggrieved with was infact preceded by Mutation Entry in respect of the same property in the name of the actual holder of the property and it is stated in the order that the subject Mutation Entry of Petitioners' predecessor was incorrectly recorded.

5. Be that as it may, recording of Mutation Entry or rights emanating from Mutation Entry do not substantially govern right, title and interest of parties in whose favour the Mutation Entries are effected. Mutation Entry is effected on the basis of ancestral legacy strictly in accordance with law or on the basis of declaration of title or by operation of law on the application of the purchaser for fiscal and revenue purpose. The Mutation Entry does not determine title of the property in whose name it is entered *per se*.

6. All these questions regarding how the Mutation entry was effected, in what circumstances it was deleted, whether that property was acquired for a public purpose, if acquired who received compensation, if not acquired then who is in possession of the land as on today are all disputed questions of facts. They then cannot be gone into by this Court while deciding action of deletion of Mutation Entry.

If Petitioners are aggrieved, Petitioners are at liberty to file an appropriate civil Suit in the appropriate Court having principal original civil jurisdiction and agitate their substantive right of entitlement in the subject property.

7. It is directed that all orders passed by the Competent Authority regarding the subject Mutation Entry shall be subject to orders that will be passed by the Civil Court in the proceedings adopted by the Petitioners in accordance with law.

8. Mr. Damle on instructions informs the Court that Petitioners shall file Civil Suit before the Civil Court within a period of eight weeks from today alongwith application below Exhibit-5 and pray for appropriate interim relief therein.

9. If any such Suit is filed by the Petitioners, the Civil Court shall take cognizance of the same and determine their application below Exhibit-5 within a period of four weeks from the date of institution of the said Suit alongwith said Application strictly in accordance with law and after hearing all concerned parties.

10. The impugned orders are upheld. However it is directed that no further steps shall be taken by the Government in furtherance of the impugned orders which are subject matter of the present Writ Petition for a period of eight weeks from today to enable the Petitioners to obtain appropriate orders from the Civil Court in accordance with law.

11. Needless to state that all contentions of all parties are kept expressly open without this Court expressing its opinion on the above issue.

12. With the above directions, Writ Petition is disposed.

H. H. SAWANT

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[MILIND N. JADHAV, J.]