IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2059 OF 2025

Ankush Eknath Jadhav and another ... Petitioner
versus
Smt.Balutai Bajirao Patil and others ... Respondents

Mr.Pratik B.Rahade, Advocate for Petitioner.
Mr.Vijay Patil, Senior Advocate, with Mr.Nitin Dhumal, for Respondent no.1.
Ms.Dhruti Kapadia, AGP, for State.

CORAM : AMIT BORKAR, J.
DATE : 11th March 2025

PC :

1. Heard the learned counsel for the parties and perused the record. The challenge in this writ petition is directed against the order passed by Respondent No.5 whereby the Revision Application of Respondent No.1, arising out of an Appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 ("MLRC"), has been allowed. The impugned order sets aside the mutation entry effected in favour of the Petitioner on the ground that the sale deed executed in favour of the Petitioner allegedly contravenes the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ("Fragmentation and Consolidation Act"). It is contended by the Petitioner that the concerned authority, while invoking revisional powers under Section 257 of the MLRC, has transgressed the limited jurisdiction conferred upon it, and that any issue regarding the validity of the sale deed on the ground of fragmentation ought to be adjudicated by the competent authority under the Fragmentation and Consolidation Act or a Court of competent civil jurisdiction.

2. At the outset, it may be noted that the Fragmentation and Consolidation Act was enacted with the objective of preventing the further fragmentation of agricultural land into uneconomic holdings and to consolidate the existing holdings, thereby ensuring the viability of agricultural operations. Where a breach of this Act is alleged, the Act itself provides a mechanism to declare void any transfer that leads to prohibited fragmentation. However, in the instant case, the order under challenge appears to have been passed by Respondent No.5 while exercising powers under Section 257 of the MLRC, which revisional power is circumscribed and does not ordinarily extend to declaring a sale deed void on merits of its legality under specialized legislation unless specifically empowered by law.

3. It is well settled that, for a transfer to be invalidated on the ground of prohibited fragmentation, the authority empowered under the Fragmentation and Consolidation Act must initiate appropriate proceedings under that Act. Mere recording of a mutation entry in the revenue records is primarily an administrative act, reflecting de facto possession and the registered transfer document. The entries in the revenue record do not confer title and cannot, by themselves, be treated as conclusive proof of ownership. Consequently, the correctness or otherwise of a particular transfer on substantive grounds ought to be tested through proceedings under the relevant statutory framework or by a competent court, rather than in a limited revisional forum under the MLRC.

4. It is also a well-settled principle that while exercising powers under Section 257 of the MLRC, the State Government or its delegate cannot exceed the scope of the powers conferred on the Tahsildar under Section 149 of the MLRC. Section 149 of the MLRC recognizes the right of a person who acquires an interest in land through various modes—such as succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease, or otherwise—to have his or her name entered in the record of rights. This statutory obligation, as envisaged in Section 149, seeks to ensure that revenue records accurately reflect the person in possession or the person deriving title in the manner recognized by law.

5. The right contemplated under Section 149 is substantive and is recognized under various enactments, including the Transfer of Property Act, 1882. Revenue authorities, while examining an application for mutation, are merely to verify whether the person applying for a mutation has a facially valid, registered instrument or a recognized mode of acquisition. They are not vested with powers to conduct an intricate or final adjudication on the validity of the document of title, especially where complex issues of fraud, misrepresentation, or statutory prohibitions under separate enactments (like the Fragmentation and Consolidation Act) are involved.

6. The revenue authorities discharging their duties of updating land records are not competent to adjudicate upon complicated questions of title and cannot be used as a forum to declare transfers invalid solely on the basis of alleged statutory violations. Instead, where the alleged breach falls within the domain of the Fragmentation and Consolidation Act, the Act empowers the authorities specifically designated thereunder to declare such transactions void.

7. Therefore, in view of the above legislative framework and judicial enunciation, it is manifest that the authority under Section 149 of the MLRC is to examine whether the document on the basis of which a mutation is sought (i) purports to create or transfer a right, title, or interest in the land, and (ii) is otherwise a document recognized by law. Adjudication of the legality or enforceability of the sale deed on grounds of fragmentation or any other statutory violation is beyond the ambit of the mutation proceedings unless a specific and express provision under the MLRC or any allied law empowers the authority to do so—which, in the present context, is absent.

8. Consequently, it follows that Respondent No.5, in the instant case, could not have validly set aside the Petitioner's mutation entry solely on the premise that the sale deed contravened the Fragmentation and Consolidation Act. The proper course for Respondent No.1, if they so desire, is to institute appropriate proceedings under the Fragmentation and

Consolidation Act or any other statute that provides for scrutiny of such alleged illegalities in the sale deed.

9. Once a sale deed is executed and registered, the mutation entry is, at best, a reflection of that transaction on the revenue records. Any contention as to the illegality of such a document under special legislation can only be tested by the competent authority or forum created under that legislation or by a competent civil court. Hence, if Respondent No.1 believes that the transaction is void by virtue of the provisions of the Fragmentation and Consolidation Act, they remain at liberty to challenge the same before the authority empowered under that Act or before any other forum competent to adjudicate on such issues.

10. In light of the foregoing discussion and subject to the aforementioned clarification, Rule is made absolute in terms of prayer clause (a). The impugned order is quashed and set aside. It is, however, clarified that Respondent No.1 shall be at liberty to pursue appropriate proceedings under the Fragmentation and Consolidation Act or any other applicable law, if so advised, to impugn the sale deed purportedly executed in favour of the Petitioner. With these observations, the petition stands disposed of. No order as to costs.

(AMIT BORKAR, J.)

MST