VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1845 OF 2003

Subhash Kakasaheb Patil … Petitioner
V/s.
Sushilabai Tukaram Patil & Ors. … Respondents

Mr. Tejpal S. Ingale for the petitioner.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 7, 2025

P.C.:

1. The challenge in this writ petition is directed against an order passed by the State Government which held that the second revision was not maintainable. However, in light of the subsequent judgment of the Supreme Court in the case of *Gurudassing Nawoosing Panjwani v. State of Maharashtra*, (2016) 2 SCC 213, it is submitted that the second revision was indeed maintainable.

2. Perusal of the record indicates that the petitioner applied for the registration of his name in the revenue records in respect of properties bearing Gat Nos. 853, 832, 440, 367, 264, 207, and 58 situated in the village of Tambave, Taluka Walva, District Sangli. The application was predicated on a Will, which the petitioner averred to have been executed in compliance with the statutory formalities. It is contended that the Will, being duly attested and executed in accordance with legal requirements, establishes a bona fide claim of title and ownership over the aforementioned properties.

3. Simultaneously, respondent No. 1 had instituted Regular Civil Suit No. 116 of 1980, seeking partition and separate possession of the disputed properties. The revenue authorities, however, disbelieved the petitioner's claim and consequently refused to record his name based on the Will. Notwithstanding this, the learned counsel for the petitioner brought to this Court's attention the judgment in Second Appeal No. 134 of 1993, wherein this Court held that the Will executed in favour of the petitioner was genuine. In light of this binding judicial pronouncement, it is unequivocally established that the revenue authorities erred in not allowing the petitioner's application under the Maharashtra Land Revenue Code. This error not only undermines the petitioner's substantive rights but also stands in contravention of established legal precedents.

4. At this juncture, it is pertinent to note that the learned counsel for the petitioner has apprised this Court that an S.L.P. challenging the judgment in Second Appeal No. 134 of 1993 is pending before the Supreme Court. It is necessary that, notwithstanding the pendency of the S.L.P., the present writ petition must be adjudicated on its merits to safeguard the petitioner's rights. In the event that the respondents succeed in the S.L.P., it is clarified that they would then be at liberty to reapproach the revenue authorities in accordance with the directives emanating from the Supreme Court's decision. Until such time as a final determination is made in the S.L.P., the petitioner's application retains its operative validity and the present relief is warranted.

5. In view of the foregoing considerations, it is hereby directed that the rule in terms of prayer clause (b) is made absolute.

(AMIT BORKAR, J.)