VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7554 OF 2003

Dhondiram Rau Patil … Petitioner
V/s.
Amarsinha Buaso Nimbalkar … Respondent

Mr. Vikrant Anand Desai h/f S. M. Kamble for the petitioner.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 14, 2025

P.C.:

1. The present writ petition is directed against an order passed by the Additional Commissioner, Pune Division, Pune, dated 28 March 2003. This order emanated from an inquiry conducted pursuant to Rule 31 of the Maharashtra Land Revenue Record of Rights and Register (Preparation and Maintenance) Rules, 1971.

2. It is averred that, following the execution of an agreement to sell in favour of the petitioner—which unambiguously contained a recital regarding the delivery of possession—the petitioner duly approached the Tahsildar to have his name entered in the possession column of the revenue record. The Tahsildar, having conducted a spot inspection of the premises, recorded the petitioner's name in the said column. This entry was subsequently confirmed by the immediate appellate authority. However, the second appellate authority allowed the appeal on the ground that the suit in which the Civil Court had previously granted an injunction in favour of the petitioner was subsequently withdrawn by the petitioner, and that the material available in the record was insufficient to sustain a finding of possession in his favour.

3. The finding of the second appellate authority was reaffirmed by the Additional Commissioner, Pune Division, Pune, who observed that, with the withdrawal of R.C.S. No. 200 of 1999, the temporary injunction previously granted in the petitioner's favour was effectively cancelled. Accordingly, the Additional Commissioner held that there exists no evidentiary or legal basis upon which the petitioner may assert possession of the property.

4. The learned counsel for the petitioner submits that the lower authorities have erred by disregarding material evidence tendered by the petitioner. In particular, it is argued that the entry made by the Tahsildar—recorded after a diligent spot inspection and clearly indicating the petitioner's possession in the revenue records—was unduly neglected, thereby resulting in an adverse impact on the petitioner's claim.

5. The appellate authority's reasoning appears to rest predominantly on the fact that the petitioner voluntarily withdrew his suit for injunction. In withdrawing his claim for substantive relief to protect his possession, the petitioner effectively nullified the basis upon which such relief was sought. Consequently, the revenue authorities, in upholding the respondent's appeal, rightly held that the prior entry of the petitioner's name in the possession column need not be sustained.

6. It is a well-established tenet of law that entries in the revenue records are maintained strictly for fiscal and administrative purposes. Such entries are not determinative of substantive rights over immovable property; they neither create nor extinguish such rights.

7. Notwithstanding the dismissal of the present writ petition, it is expressly clarified that the petitioner remains at liberty to initiate appropriate civil proceedings for the determination and establishment of his rights over the property. Such civil proceedings are independent of the observations made herein and shall not be precluded or adversely affected by either the present judgment or the observations contained in the impugned orders.

8. With above, the writ petition stands disposed of. No costs.

9. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)