

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11328 OF 2024

Mahamood Ismail Kazi & Ors.

....Petitioners

V/S

Abdulsattar A. Rahiman Kazi & Ors.

....Respondents

**WITH
INTERIM APPLICATION NO.415 OF 2025
IN
WRIT PETITION NO.11328 OF 2024**

Abdulsattar A. Rahiman Kazi & Ors.

....Applicants

IN THE MATTER BETWEEN

Mahamood Ismail Kazi & Ors.

....Petitioners

V/S

Abdulsattar A. Rahiman Kazi & Ors.

....Respondents

Mr. Rajesh Kachare a/w Ms. Sonal Dabholkar i/b
Mr. Shriram S. Redij *for the Applicants in IA and Respondents
in WP.*

Mr. Rupesh R. Lanjekar *for Petitioners in WP and for
Respondents in IA.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 29 JANUARY 2025.**

P.C.:

1. The Petition challenges order dated 13 May 2024 passed by the learned Principal Secretary, Government of Maharashtra, allowing the Revision Application filed by the contesting Respondents and setting aside the order passed by the

Additional Divisional Commissioner as well as Sub Divisional Officer.

2. I have heard Mr. Lanjekar, the learned counsel appearing for the Petitioners and Mr. Kachare, the learned counsel appearing for the Respondents.

3. The issue is with regard to mutation of names of the parties in respect of land bearing Survey No.733B. It appears that earlier name of late Latifabi was mutated in respect of Survey No.733B. It is the case of the Petitioners that Latifabi executed release deed in their favour and that therefore their names ought to have been mutated to the revenue records in respect of land bearing Survey No.733B. However by Mutation Entry No.905, the names of children of Latifabi came to be mutated to the revenue records. Accordingly Petitioners set up a challenge to Mutation Entry No.905 and succeeded before Sub Divisional Officer, who directed remand of the proceedings to the Circle Officer by order dated 6 August 2018 directing that notices be issued to all co-sharers for deciding the mutation afresh. Sub Divisional Officer's order came to be set aside by the Additional Collector on 29 July 2019. Petitioners succeeded before the Additional Divisional Commissioner who upheld the order of the Sub Divisional Officer by his order dated 11 March 2022. The learned Minister has finally ruled in favour of the contesting Respondents by setting aside the orders passed by the Additional Divisional Commissioner and Sub Divisional Officer.

4. It appears that land bearing Survey No.733B has already been acquired. Parties have already got their rights adjudicated *qua* the acquired land before the Civil Court in which decree has been passed on 3 May 2014 directing that both the sides are entitled to 50% compensation each in respect of the acquired land including Survey No.733. Petitioners are aggrieved by the decree dated 3 May 2014 and have filed an Appeal before the Appellate Court. Therefore the issue of mutation of names to the revenue records is rendered meaningless and the real contest between the parties is with regard to right to receive compensation. The issue of right to receive compensation has already been decided by the Civil Court by decree dated 3 May 2014 which is pending in Appeal. The Appellate Court would accordingly decide the issue relating to right to receive compensation. Since the issue of mutation of names has now been rendered academic on account of revenue records, it is not necessary to examine correctness of orders passed by the Revenue Authorities. Instead it can be directed that mere mutation of names to the revenue records would not be a factor for deciding the rights of the parties to receive the compensation of acquired land. Such right will be decided on its own merits by the Appellate Court without being influenced by mutation of names to the revenue records. Subject to above clarification, the Writ Petition is accordingly **disposed of**.

5. So far as Interim Application No.415 of 2025 is concerned, the Applicants would be at liberty to apply before the Appellate Court for payment of 50% compensation in respect of the acquired land. Interim Application is accordingly **disposed of**.

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
KATKAM

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