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

WRIT PETITION NO.6774 OF 2017

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Hasan Chand Jamadar & Ors.

... Petitioners

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Prajakt M. Arjunwadkar with Mr. Prathamesh Hande, Mr. Raj Satam and Ms. Jui Gharat for the petitioners.

Mr. S.D. Rayrikar, AGP for respondent Nos.1 to 4 – State.

Mr. Sumedh S. Modak i/by Mr. Vijay Killedar for respondent No.6.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 30, 2025

P.C.:

1. The challenge in this writ petition, preferred under Article 226 of the Constitution of India, is to the order dated 8th July 2014 passed by respondent No.2 (the Minister for State Revenue and Forest, State of Maharashtra), dismissing the petitioners' Revision Application No.Consolidation/3807/216/Case No./Kolhapur/14/J-5A arising out of proceedings under Sections 247 and 249 of the Maharashtra Land Revenue Code, 1966 (hereinafter "MLRC"). The impugned order, it is contended, suffers from jurisdictional errors and non-application of mind to settled principles of law.

2. The factual matrix, as per the petitioners, reveals that respondent Nos.5 and 6 had instituted Regular Civil Suit No.55 of

1980 under Section 38 of the Specific Relief Act, 1963, seeking perpetual injunction in respect of land bearing CTS No.185. A specific issue (Issue No.[1]) was framed by the Civil Court under Order XIV Rule 1 of the Code of Civil Procedure, 1908 (CPC), pertaining to the ownership rights of respondent Nos.5 and 6. After adjudication, the said issue was answered in the negative, holding that respondent Nos.5 and 6 failed to discharge their burden of proof under Section 101 of the Indian Evidence Act, 1872, and thus did not establish lawful ownership over the suit property.

3. Subsequently, the petitioners filed an application under Section 149 of the MLRC before the Tahsildar, seeking deletion of the names of respondent Nos.5 and 6 from the revenue records (Mutation Entry). The Tahsildar, rejected the petitioners' claim, opining that the petitioners failed to substantiate their title through cogent documentary evidence under Rule 12 of the Maharashtra Land Revenue (Village, Town, and City Survey) Rules, 1969. This rejection was erroneously upheld by respondent No.1 in revision, despite the binding nature of the Civil Court's findings.

4. Upon perusal of the record, this Court finds that the Civil Court's adjudication in Regular Civil Suit No.55 of 1980 attained finality, as no appeal or revision was preferred against the judgment and decree. The specific finding on Issue No.[1], holding respondent Nos.5 and 6 devoid of ownership, operates as res judicata under Section 11 of the CPC and binds the Revenue Authorities under Section 40 of the Indian Evidence Act. Consequently, the Revenue Authorities erred in law by

disregarding the conclusive determination of title by a competent Civil Court.

5. Insofar as the petitioners' claim of ancestral ownership is concerned, the Civil Court framed Issue No.[4], casting upon the petitioners the burden to prove their title under Section 110 of the Indian Evidence Act. The Court, after evaluating the genealogy and ancestral records under Section 32(5) of the Indian Succession Act, 1925, and Section 50 of the Evidence Act, returned a finding in the affirmative, conclusively establishing the petitioners' title. This finding, having attained finality, rendering any contrary view by the Revenue Authorities legally untenable.

6. The Revenue Authorities, acting under Section 150 of the MLRC, were statutorily obligated to "correct the record of rights" to reflect the Civil Court's findings, as mandated by Maharashtra Act No. XIII of 1967. The impugned orders, being perverse and subversive of settled law, are unsustainable.

7. For the foregoing reasons, this Court exercises its plenary jurisdiction under Article 226 and allows the writ petition in terms of prayer clauses (i) to (iii), which reads thus:

(i) Rule be issued; record and proceedings of the case be called for and after examining the legality, validity and propriety of, the impugned Judgment and Order dated 08.07.2014 passed by Hon'ble Minister for State Revenue and Forest Department State of Maharashtra Mantralaya Mumbai in Revision Application No. consolidation-3807/216/CS No./Kolhapur 14/J-5A arising out of the

impugned judgment and order dt. 24.04.2007 passed by the Deputy Director of Land Records, Pune Division, Pune in City Survey/Appeal No 712 of 1995 be quashed and set aside;

(ii) This Hon'ble Court may be pleased to quash and set aside the Judgment and Order dt. 24.04.2007 passed by Deputy Director of Land Records, Pune, Division , Pune in City Survey/Appeal o. 712of 1995;

(iii) this Hon'ble Court may be pleased to direct to restore the order dt. 03.09.1994 passed by the consolidation officer (Appeal), Kolhapur in CTS/Appeal No. 928/88 and be further pleased to issue necessary directions to Respondent Nos. 1 to 4 to enter the name of Petitions to the property register card of City Survey No. 185;

8. No order as to costs.

(AMIT BORKAR, J.)