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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13789 OF 2023

Manohar Nana Kamble … Petitioner
V/s.
Ashok Shyamrao Mane & Ors. … Respondents

Mr. R. S. Alange for the petitioner.

Mr. Suryajeet P. Chavan for respondent No.1.

Ms. M. S. Srivastava, AGP for the State-respondent Nos.3 and 4.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 24, 2025

P.C.:

1. Challenge in this writ petition arises out of proceedings initiated under Section 149 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as "the Code"). The petitioner impugns the final order passed by the State of Maharashtra on the ground that the revenue authorities, while allowing the application of respondent No.1 for mutation, have not accorded due consideration to the petitioner's claim arising out of an agreement to sell allegedly executed in the year 2008.

2. At the outset, it would be pertinent to note that Section 149 of the Code confers upon the revenue authorities the power to record or register mutations in respect of land revenue entries. The scope of such proceedings, however, stands circumscribed by the ministerial nature of the power. Judicial precedents have consistently recognized that entries made in revenue records do not by themselves create or extinguish title; rather, they are maintained for fiscal purposes and are always subject to the pronouncement of competent civil courts. The Supreme Court in *Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana & Anr., (2012) 1 SCC 656*, has reiterated that the primary document for transfer of title in immovable property is a duly executed and registered sale deed, and revenue authorities are bound to reflect such title in the revenue record.

3. The record placed before this Court indicates that respondent No.1 applied for entering his name in the revenue records pursuant to a registered sale deed dated 2012. The petitioner, however, asserts a competing claim to the suit property on the basis of an agreement to sell allegedly executed in the year 2008. According to the petitioner, this unregistered agreement evidences that the petitioner has an interest in the suit property and that the subsequent sale deed in favour of respondent No.1 ought not to have been given effect in the revenue records.

4. It is necessary to mention here that an agreement to sell by itself does not vest any legally enforceable title in the proposed purchaser unless and until the conveyance is duly executed and registered in accordance with law. Reference may be made to *K.B. Saha and Sons Pvt. Ltd. v. Development Consultant Ltd., (2008) 8 SCC 564*, where the Hon'ble Supreme Court observed that an agreement to sell, although it may give rise to certain contractual rights, cannot be equated to a registered deed of sale in terms of transferring title.

5. It is now well settled, and this legal position stands consistently affirmed, that the revenue authority must act upon a registered document of title at the time of making entries in the revenue records. A registered sale deed, duly executed according to law, is a primary and conclusive document which the revenue authorities can legitimately rely upon. The argument premised upon limitation in effecting mutation does not hold water in this context, for, if title has validly passed under a registered conveyance, the duty of the revenue authority is ministerial in nature—to give effect to such title in the revenue record.

6. In the instant case, it has come on record that a civil suit seeking specific performance of the agreement to sell is already pending before the competent Civil Court. Naturally, the adjudication of the petitioner's claim for enforcement of that agreement falls squarely within the domain of the civil court, as questions of title and contractual obligations are best resolved there. It is also trite to observe that revenue entries are always subject to the decision of the Civil Court and orders passed by revenue authorities cannot conclude or override the rights of parties under the civil law.

7. As regards the contention raised on behalf of the petitioner that the impugned order passed by the State of Maharashtra suffers from a breach of the principles of natural justice, it is indeed a foundational rule that no adverse order may be passed without affording the concerned party an opportunity of being heard. However, the Supreme Court in *State of Uttar Pradesh vs. Sudhir Kumar Singh, (2021) 19 SCC 706,* has observed that every violation of the principles of natural justice does not ipso facto vitiate the proceeding. The Court emphasized that unless the breach of such principles has caused substantial prejudice to the party so complaining, it does not furnish a sustainable ground for setting aside an otherwise lawful order.

8. Applying the aforesaid proposition to the facts of the present case, there is no material on record to suggest that the petitioner has suffered any legal prejudice. The petitioner's substantive claim to the property, in any event, stands preserved for adjudication before the Civil Court in the pending suit. Hence, the alleged breach of opportunity of hearing does not inure to the petitioner's benefit in seeking interference under the writ jurisdiction of this Court.

9. For the foregoing reasons, and in the light of the binding precedents cited hereinabove, the writ petition is dismissed, with no order as to costs. This Court finds no infirmity or jurisdictional error in the order passed by the State of Maharashtra warranting interference under Article 226 of the Constitution of India.

10. It is, however, made clear that the rights of the parties shall be governed by the outcome of the substantive civil suit, which is presently pending before the competent Civil Court. The findings or observations of the revenue authorities, or for that matter this Court in the instant writ proceeding, shall not, in any manner, prejudice the petitioner or respondent No.1 in the pending suit.

11. All contentions of the parties on merits, including questions of title, possession, and enforceability of the agreement to sell, are kept open to be agitated before the Civil Court. The Civil Court shall decide the same on their own evidentiary value and in accordance with law, uninfluenced by any observation made herein.

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

(AMIT BORKAR, J.)