Nikita

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2640 OF 2020

Vijaykumar Kondiram Tapase … Petitioner

V/s.

The State of Maharashtra and Ors. … Respondents

Mr. Pradip R. Kadam for the Petitioner.

Mr. Sushil A. Inamdar for Respondent No.3.

Mr. Sanjay D. Rayrikar, AGP for the State-Respondent Nos.1 and 2.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 9, 2024

P.C.:

1. **Rule.** Rule is made returnable forthwith.

2. The petitioner is challenging the order dated 31st January 2018 passed by respondent No.2, setting aside judgment and order passed by Commissionar and Additional Collector directing entry of petitioner's name in the revenue extract.

3. The petitioner based on sale deed executed by respondent Nos. 4 to 7 applied for his name to be recorded in mutation entry. The First Authority entered the petitioner's name in the revenue record. The respondent No.3 challenged the entry by way of appeal under Section 247 of the Land Revenue Code, 1966. The

Sub-divisional Officer on 26th April 2013, dismissed the appeal. However, the Collector by order dated 20th February 2014 allowed the appeal and directed deletion of petitioner's name in the revenue records. The Divisional Commissioner in exercise of power under Section 257, allowed the revision and conferred the order of Sub-divisional Officer. However, respondent No.2 in revision application filed by respondent No.3 by order dated 31st January 2018, set aside the order of commissioner and directed the deletion of petitioner's name in the revenue records.

4. It is undisputed that the application of petitioner for entry of his name in the revenue record is based on registered sale deed. It is also not in dispute that vendor of petitioner was a person who purchased the property in dispute from the persons who were allottees under the provisions of the Maharashtra Resettlement of Project Displaced Persons Act, 1976. Initial allottees sold the land in favour of the vendor of respondent Nos.4 to 7. The vendor of respondent No.4 to 7 applied before the authorities under the Maharashtra Resettlement of Project Displaced Persons Act, 1976 permitted regularization of sale deed . After such regularization, petitioner's vendors sold the property in dispute to the petitioner by way of sale deed. Therefore, based on sale deed, the entry in revenue record deserves to be made.

5. The scope of power under Section 150 of the Land Revenue Code, 1966 is well settled. The enquiry under Section 150, cannot travel beyond the scope of power conferred on authority under the Act. The authorities under the Act will have to enquire as to whether the documents produced before the authorities apparently discloses acquisition of right in favour of applicant in a manner and of the nature claimed by the applicant. Whether, such applicant is infact entitled to claim such right to the property is beyond purview of power of authorities under Section 150 of the Land Revenue Code, 1966. The power to adjudicate regarding such issues of right title interest in the immovable property vests in the Court and such power does not lie with the Revenue Authorities under Section 149 and 150 of the Land Revenue Code, 1966.

6. The petitioner claimed title in the property based on registered sale deed. The authorities under the Land Revenue Code, 1966 could not have adjudicated title of vendor of petitioner. However, it is also well settled that adjudication under Section 149 or 150 of the Land Revenue Code, 1966 has no effect on either creating or extinguishing right in the immovable property. The aggrieved person need to approach the Court for ventilation of his grievance. In that view of the matter, respondent No.2 was not justified in setting aside the mutation entry in favour of the petitioner.

7. Hence, rule is made absolute in terms of prayer clause (b).

8. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)