

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2456 OF 2024

Prakash Uttamrao Chavan & Ors.

.. Petitioners

Versus

Madhav Rangnath Mali & Ors.

.. Respondents

.....

- Mr. Shrishailya Deshmukh, Advocates for Petitioners
- Ms. Vaishali Nimbalkar, AGP for State

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 9, 2025

P. C.:

1. Heard Mr. Deshmukh, learned Advocate for Petitioners and Ms. Nimbalkar, learned AGP for State.

2. Challenge in the present Petition pertains to judgment and order dated 05.12.2022 passed by State in Revision proceedings emanating from RTS proceedings filed by Petitioners in respect of the subject land.

3. It is the case of Petitioners that subject land bearing Survey No. 140/1/2/1 admeasuring 2.45 Ares at Village Makhmalabad, District Nashik was purchased by their father by a registered Conveyance Deed dated 04.10.1974 and the revenue extract thereof depicted area of 2.45 Ares in the name of Petitioners' father. Petitioners contend that Respondent No. 1 is the owner of adjacent land bearing Survey No.

140/2B admeasuring 1.27 Ares by virtue of registered conveyance of even date.

4. Mr. Deshmukh would submit that in the year 1975-76 subdivision of Survey No. 140/1 took place leading to its division into Survey No. 140/1 + 2/1 admeasuring 2.36 Ares and further Survey No. 140/2A renumbered as 140/1 + 2/1 admeasuring 1.17 Ares whereas Survey No. 140/2B was renumbered as 140/1 + 2/3 admeasuring 1.46 Ares. He would argue that resultantly 9 Ares land area from the Petitioners' land namely Survey No. 140/1 + 2/1 was reduced and was added to the land belonging to Respondent No. 1. He would submit that in view of this, measurement was carried out by the Competent Authority from the Department of Land Records and accordingly mutation entry No.7377 came to be certified on 28.09.1980. He would submit that due to the dichotomy in the area of the subject property as per the registered conveyance as against the revenue entry, it was incumbent upon Petitioners to challenge the same but due to the advice received by Petitioners, challenge to the said mutation entry was withdrawn. He would submit that it is only in the year 2017 that by filing RTS Appeal, said mutation entry was challenged seeking correction by the DILR and cancellation of mutation entry No. 7377. Appeal came to be dismissed which rendered further challenge in RTS Appeal which was also dismissed on

05.04.2021. Order passed by the Additional Collector was challenged before the DSLR by Petitioners which allowed the Appeal by order dated 28.02.2022 by giving a direction that fresh survey of sub-division area and Survey Numbers be undertaken in the presence of parties. Respondent No. 1 being aggrieved with the order dated 28.02.2022 approached the Dy. Director of Land Records and pending that Revision filed Second Revision before the State which allowed the Revision of Respondent No. 1 leading to filing of the present Writ Petition.

5. It is trite law that mutation entries and revenue entries are meant for fiscal purpose and do not determine title of the parties to the subject land. It is seen that in the interregnum Respondent No. 1 also filed Civil Suit being RCS No. 779 of 2018 which was withdrawn on 16.07.2025 without prosecuting the same. Be that as it may, grievance of Petitioners is with respect to entitlement to 9 Ares of land out of Respondent No.1's area. The aforesaid facts are stated in the Petition duly supported by several orders. Petitioners as well as Respondent No. 1 are relying upon their respective registered sale deeds, both of even date dated 04.10.1974, however they are subject to the sub-division which has taken place in the year 1975-76 whereby fresh areas Survey Nos. 140/1 + 2/1 and 2/3 are carved out. Petitioners will have to be prove the above on the basis of cogent

evidence and record notwithstanding the fact that Petitioners will also have to answer delay and laches. Petitioners are at liberty to approach the Civil Court of original jurisdiction and file appropriate proceedings as available to Petitioners in law and if at all any such proceedings are filed, the same shall be governed and determined strictly in accordance with law. In Writ jurisdiction Court cannot give its imprimatur on disputed question of fact and determine entitlement of the 9 Ares in favour of Petitioners. Needless to state that the subject Mutation Entry shall be subject to the outcome of the civil suit that may be filed by the Petitioners.

6. All contentions of the Petitioners as also the private Respondents in the present case are kept open without this Court opining on any of the merits of the matter.

7. Writ Petition is disposed in the above terms.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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