

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

WRIT PETITION NO. 2504 OF 2024

Shri. Popat Gulabrao Devkate

... Petitioner

Versus

The State of Maharashtra

Through Revenue Minister of

State of Maharashtra and Ors

... Respondents

Mr. Vishal Kanade *i/b Mr. Bhalchandra S. Shinde for the Petitioner.*

Mr. B.B. Dahiphale, *AGP for Respondent / State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 3 MARCH 2025.

P.C. :

1) The Petition challenges order dated 7 June 2023 passed by the Hon'ble Minister (Revenue) rejecting Revision Application filed by the Petitioner and confirming the order dated 26 December 2019 passed by the Deputy Director of Land Records, Pune. The Deputy Director in turn confirmed the order 16 November 2017 passed by the District Superintendent of Land Record who had set aside the order dated 24 May 2016 passed by Deputy Superintendent of Land Records, Daund.

2) I have heard Mr. Kanade, the learned counsel appearing for the Petitioner and have considered the submissions canvassed by him.

3) It is the contention of the Petitioner that he has purchased land admeasuring 4 Acres and 1/2 Guntha on 1 September 1965 and accordingly his name was mutated vide Mutation Entry No. 2562 dated 6 March 1969 in respect of Survey No. 31/1C in respect of correct area of 4 Acres and 1/2 Guntha. However at the time of implementation of the consolidation scheme Survey No. 31/1C came to be allotted Gat No.31/4 in which the area of the land got reduced to 2 Acre and 25 Ares. This is how land admeasuring 1 Acre and 15 Ares got missing in the consolidation scheme. This is the real grievance of the Petitioner. However instead of filing proceedings for correction of clerical or arithmetical errors in the consolidation scheme under provisions of Section 31A of the Maharashtra Prevention of Fragmentation and Consolidation of Land Holdings Act, 1947 (**Consolidation Act**), Petitioner initiated proceedings before the Deputy Superintendent of Land Records by filing Appeal No. 1941 of 2011 challenging Mutation Entry No. 2577 and prayed for reflection of correct area of 4 Acres and 1/2 Guntha against his name. It appears that the District Superintendent of Land Records initially directed conduct of measurements by Deputy Superintendent of Land Records, Daund by his order dated 23 May 2012. That order became subject matter of challenge by the contesting Respondents before Deputy Director of Land Records, Pune. However the Appeal preferred by the contesting Respondents came to be rejected by the Deputy Director of Land Records by order dated 18 June 2015 and the order of the District Superintendent dated 23 May 2012 came to be confirmed.

4) In the above background, Petitioner was advised to file one more proceedings before Deputy Superintendent of Land Records, this time once again challenging Mutation Entry No. 2577

and for allotment of correct area of land to Gat No. 31/4. Mr. Kanade would clarify that what was filed before Deputy Superintendent of Land Records was only an offshoot of proceedings arising out of conduct of measurements vide order dated 23 May 2012. Be that as it may. The said Appeal was partly allowed by Deputy Superintendent and direction was given for area correction in Mutation Entry No. 2577.

5) The contesting Respondents filed Appeal before the District Superintendent of Land Records, which came to be allowed by order dated 16 November 2017 setting aside the order dated 24 May 2016 passed by Deputy Superintendent. This decision of the District Superintendent has been upheld by Deputy Director as well as by the Hon'ble Minister.

6) The Petitioner is thus essentially aggrieved by refusal to correct the land area in Mutation Entry No. 2577 executed at the time of implementation of the consolidation scheme.

7) In my view, there is a fundamental flaw in initiation of proceedings by the Petitioner. Petitioner is essentially aggrieved by allotment of lesser land during implementation of the consolidation scheme. In such circumstances the correct remedy for the Petitioner was to file either proceedings under Section 31A for correction of clerical or arithmetical mistakes in the scheme or proceedings under Section 33 of the Act to seek variation in the scheme. However instead of seeking appropriate remedies under the Consolidation Act, the Petitioner repeatedly moved the revenue authorities for correction of area of the land in Mutation Entry No. 2577 certified at

the time of preparation of the consolidation scheme. Unless consolidation scheme is modified, there is no question of changing the area in the mutation entry as the mutation entry is certified only as consequence of giving effect to the consolidation scheme. In my view, therefore, the impugned order does not suffer from any patent error on account of fundamental flaw in the proceedings initiated by the Petitioner. If the Petitioner believes that there is any error in the consolidation scheme or that the scheme needs to be reopened, it will be for the Petitioner to adopt necessary remedies in that regard.

8) The impugned orders have the effect of refusal to correct area of the land in Mutation Entry No. 2577 certified on 24 December 1967. In the event Petitioner succeeds before the consolidation authorities, corresponding area correction can obviously be carried out in the revenue records. However without correction of the consolidation scheme, there is no question of correcting area of the land only in the revenue records. I therefore do not find any valid reason to interfere in the impugned order. Reserving the liberty for the Petitioner to file proceedings under the provisions of the Consolidation Act, the Writ Petition is **disposed of**.

[SANDEEP V. MARNE, J.]