

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2651 OF 2024

Sunil Ganpatrao Hekre and Ors.

...*Petitioners*

V/s.

Prakash Govindappa Bhakre and
Ors.

...*Respondents*

Mr. Vivek Salunke with *Mr. Ajinkya Jaibhave for the Petitioners.*

Mr. Nitin Gaware Patil with *Mr. Divyesh Jain for Respondent
Nos.1 and 2.*

Mr. S.D. Rayrikar, AGP for Respondent No.28-State.

CORAM : SANDEEP V. MARNE, J.

Dated : 19 March 2025.

P.C. :

1) Petition challenges order dated 28 July 2023 passed by the Hon'ble Minister (Revenue) allowing the revision preferred by Respondent Nos.1 and 2 and setting aside order passed by the Divisional Commissioner dated 16 February 2022 and confirming the order dated 18 February 2013 passed by the Sub Divisional Officer, Nashik Sub Division, Nashik (**SDO**).

2) It must be observed at the very outset that the case involves a rather peculiar transaction. It appears that

MEGHA
SHREEDHAR
PARAB

Digitally signed by
MEGHA
SHREEDHAR PARAB
Date: 2025.03.21
18:06:19 +0530

Respondent Nos.3 to 26 are the original owners of the land. By Sale Deed dated 2 June 2000, the land is alleged to have been sold by Respondent Nos.3 to 26 through constituted attorney in favour of Respondent Nos.1 and 2, whose names came to be mutated in the revenue records vide Mutation Entry No.6419. The original owners (Respondent Nos.3 to 26) believed that the said transaction was illegal as they had never executed any Power of Attorney for sale of property and accordingly filed Regular Civil Suit No.358 of 2005 challenging the Sale Deed dated 2 June 2000. Contrary to their own plea that Respondent Nos.1 and 2 had never acquired any title in respect of the land, Respondent Nos.3 to 26 claimed that they have repurchased the land from Respondent Nos.1 and 2 through a sale deed dated 27 April 2010, which is executed on the basis of unregistered Power of Attorney shown to have been executed by Respondent Nos.1 and 2 in favour of Respondent No.27. Thus, the original owners, who had challenged sale transaction in favour of Respondent Nos.1 and 2 in Suit No.358 of 2005 acted contrary to their own suit, possibly admitted the title of Respondent Nos.1 and 2, and now claim that they have repurchased the land from Respondent Nos.1 and 2 vide Sale Deed dated 27 April 2010. Respondent Nos.1 and 2 deny having executed any Power of Attorney, on the strength of which, Sale Deed dated 27 April 2010 could have been executed. Based on the said Sale Deed dated 27 April 2010, Respondent Nos.3 to 26 got their names mutated to the revenue records vide Mutation Entry No.7062.

3) Respondent Nos.1 and 2 have filed Civil Suit No.394 of 2010 challenging Sale Deed dated 27 April 2010. In that Suit, a statement was made by Respondent Nos.3 to 26 that they shall not sale the suit property till decision on application for temporary injunction. In brazen breach of the said statement made before the Civil Court on 6 July 2010, Respondent Nos.3 to 26 executed Sale Deed dated 6 November 2010 in favour of the Petitioners. *Prima facie* therefore the sale transaction in favour of Petitioners dated 6 November 2010 is in breach of order passed by the Civil Court on 6 July 2010. The issue therefore is whether Petitioners can have their names mutated to the revenue records on the strength of alleged sale transaction, which is executed in breach of injunction order passed by the Civil Court? Answer to my mind, appears to be in emphatic negative.

4) The revenue records are maintained for fiscal purposes and they do not constitute document of title. As of now, two suits are pending with regard to the issue of title. The first suit, being Regular Civil Suit No.358 of 2005 instituted by Respondent Nos.3 to 26, would not have much relevance as Respondent Nos.3 to 26 appear to have subsequently admitted title of Respondent Nos.1 and 2 so far as the land involved in the present Petition is concerned. On the other hand, Respondent Nos.1 and 2 have filed Civil Suit No.394 of 2010 challenging sale transaction dated 27 April 2010 shown to have been executed in favour of Respondent Nos.3 to 26. For the purpose of making revenue entries, this Court finds it *prima facie* unbelievable that

Respondent Nos.3 to 26, who were questioning the title of Respondent Nos.1 and 2, would repurchase the land from Respondent Nos.1 and 2 through sale transaction of 27 April 2010. The sale transaction of 27 April 2010 is premised on an unregistered Power of Attorney, authenticity of which is questioned by Respondent Nos.1 and 2.

5) The net effect of the orders passed by the SDO and by the Hon'ble Minister is that names of Respondent Nos.1 and 2 would continue to be reflected in the revenue records in respect of the land in question. It appears that in Appeal from Order No.627 of 2011, this Court has already directed the parties to maintain *status-quo* in respect of the land in question during pendency of both the suits. In that view of the matter, Respondent Nos.1 and 2, whose names would continue to figure in the revenue records, would not be in a position to take disadvantage of that fact for the purpose of creation of any third-party rights in respect of the land in question.

6) Considering the conduct of the Petitioners, who have chosen to enter into sale transaction with Respondent Nos.3 to 26 in breach of injunction order 6 July 2010 of the Civil Court, this Court is not inclined to exercise jurisdiction under Article 227 of the Constitution of India to aid them to have their names mutated in the revenue records by directing deletion of names of Respondent Nos.1 and 2 during pendency of the said suits.

Interest of the Petitioners are already protected by way of order of *status quo* dated 31 January 2012.

7) It is well settled position of law that jurisdiction of this Court under Article 227 of the Constitution of India is corrective in nature. In exercise of this corrective jurisdiction, the High Court need not correct every error of law or error of fact so long as the final conclusion appears to be acceptable. To my mind, the final position that prevails as of today i.e. continuation of names of Respondent Nos.1 and 2 in revenue records with *status quo* order preventing them from creating any third party rights, appears to be justifiable. The rights and contentions of the parties with regard to title in respect of the land in question would ultimately be decided in the pending suits. In that view of the matter, I am not inclined to exercise jurisdiction in respect of the impugned order passed by the Hon'ble Minister.

8) The Petition is accordingly **rejected**. Needless to observe that suits shall be decided without being influenced by any of the observations made by this Court in the order.

[SANDEEP V. MARNE, J.]