IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18129 OF 2024

Rajendra Chandmal Bora and Ors. ***...Petitioners***

V/s.

State of Maharashtra and Ors. ***...Respondents***

Mr. Ameya Deosthale *with Ms. Bhoomi Shah i/b. M/s. Strategy Law Partners for the Petitioners.*

Ms. Aloka A. Nadkarni, *AGP for Respondent Nos.1 to 4-State.*

Mr. Salil Ray *with Mr. Sandeep Phatak and Mr. Adhik Kadam for Respondent Nos.5 and 6.*

CORAM: SANDEEP V. MARNE, J.

Dated: 9 MAY 2025.

P.C.:

1. **Rule**. *Rule* is made returnable forthwith. With the consent of the learned counsel appearing for parties, the Petition is taken up for final disposal.

2) Petition challenges order dated 14 June 2023 passed by the Hon'ble Minister, Revenue allowing the revision application filed by Respondent No.5 and setting aside the order dated 10 October 2022 passed by the Additional Divisional Commissioner, Pune. The Additional Divisional Commissioner

had dismissed the revision preferred by Respondent No.5 and had confirmed the order dated 15 November 2021 passed by the Additional Collector. By his order dated 15 November 2021 the Additional Collector had allowed the appeal preferred by the Petitioners and had set aside order dated 28 June 2017 passed by the Sub Divisional Officer, Haveli (**SDO**) as well as order dated 18 June 2012 passed by the Circle Officer. The Additional Collector had declared the Mutation Entry No.21569 to be certified.

3) I have heard Mr. Deosthale, the learned counsel appearing for the Petitioners, Mr. Ray, the learned counsel appearing for Respondent Nos.5 and 6 and Ms. Nadkarni, the learned AGP appearing for Respondent Nos.1 to 4-State.

4) At the outset, Mr. Ray would raise a preliminary objection to the maintainability of the Petition submitting that the order passed by the Hon'ble Minister (Revenue) cannot be challenged in extraordinary and supervisory jurisdiction under Article 227 of Constitution of India. However, what is challenged in the present Petition is the order passed by the Hon'ble Minister, Revenue in exercise of jurisdiction under Section 259 of the Maharashtra Land Revenue Code, 1966(**the Code**). The order passed by the Hon'ble Minister, Revenue in exercise of revisional and *quasi* judicial jurisdiction can be challenged under Article 227 of the Constitution of India. In that view of the

matter, objection to the maintainability of the Petition is repelled.

5) It appears that Petitioners have purchased the land in question vide registered Sale Deed dated 21 December 2010. Respondent No.5 believes that the vendors did not have title to sell the land to the Petitioners. On this count, when registered Sale Deed was sought to be given effect in the revenue records through Mutation Entry No.21569, certification thereof was opposed by Respondent No.5. The Circle Officer was persuaded to accept the objection raised by Respondent No.5 and he declined to certify the Mutation Entry. Decision of the Circle Officer has been upheld by the SDO. The Petitioners had succeeded before the Additional Collector and Additional Divisional Collector and as a result of order passed by the Additional Divisional Collector, Mutation Entry No.21569 got certified including name of the Petitioners to the revenue records. Since the Hon'ble Minister has set aside the order passed by the Additional Divisional Commissioner, Petitioners have filed the present Petition.

6) In my view, the real contest between the parties is about title to the land in question. Respondent Nos.5 and 6 believe that the power of attorney on the basis of which, the Sale Deed dated 21 December 2010 is executed in favour of Petitioners was not valid. It appears that the Hon'ble Minister framed an issue about right to sell the land on the basis of a power of attorney. In my view, only a civil court is equipped to

decide this issue and it would be beyond the jurisdiction of revenue authorities to nullify the Sale Deed by directing that no effect can be given to the same in revenue records. Therefore Respondent No.5 and 6 will have to file a Suit challenging the Sale Deed dated 21 December 2010. In the event they succeed in such Suit and get the Sale Deed set aside, Mutation Entry No.21569 will have to be automatically set aside. Thus, certification of Mutation Entry No.21569 would be subject to the outcome of decree that would be passed by the Civil Court. In exercise of jurisdiction under Section 259 of the Code, the Minister could not have undertaken enquiry into the issue of title. Since the Sale Deed is registered, due effect thereof must be given by certifying the Mutation Entry by the revenue authorities. In the event the Sale Deed is set aside by a decree of Civil Court, mutation made in the name of Petitioners will have to be necessarily deleted. In my view therefore, Hon'ble Minister has clearly erred in entering into issue of title by allowing revision application filed by Respondent No.5.

7) Consequently, the Petition succeeds. Order dated 14 June 2023 passed by the Hon'ble Minister, Revenue is set aside. It is however, clarified that Mutation Entry No.21569 shall be subject to the outcome of the decree that may be passed in a civil Suit if and when filed by Respondent No.5 and 6 or any other party challenging the Sale Deed dated 21 December 2010. All contentions on merits are specifically kept open to be decided in

civil Suit, which shall be decided uninfluenced by observations made by revenue authorities and by this Court.

8) With the above directions, Petition is **allowed**. Rule is made absolute. There shall be not orders as to costs.

[SANDEEP V. MARNE, J.]