Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.537 OF 2025

Bhikaji Manaji Ghangav & Anr. … Petitioners
V/s.
The State of Maharashtra & Ors. … Respondents

WITH
WRIT PETITION NO.541 OF 2025

Bhikaji Manaji Ghangav & Anr. … Petitioners
V/s.
The State of Maharashtra & Ors. … Respondents

Mr. Rokade Narayan Gopinath a/w Mr. Prashant Mane, Siddharth Ghodke, Abhang Suryawanshi, Harichandra Jadhav, Hrishikesh Karhale, Udaysingh Deshmukh, Vikrant Kadam, and Amar Gujar, for petitioners in both the WPs.

Mrs. Kavita N. Solunke, AGP for State – respondent Nos. 1 to 3.

Mr. Rameshwar Gite, for respondent No.4

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 14, 2025

P.C.:

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

2. Both writ petitions herein emanate from proceedings conducted under the ambit of Section 149 of the Maharashtra Land Revenue Code, 1966. It is recorded that on 24 March 2021, the petitioners duly approached the appropriate Authority under

Section 149, seeking the mutation of the revenue records to effect an entry in respect of Gat Nos. 17 and 9. The mutation entry was consequently effected in accordance with the statutory mandate. However, this action was subsequently challenged by respondent No. 3 through an appeal, thereby giving rise to the present dispute.

3. It appears that the subject matter of Writ Petition No. 537 of 2025 pertains exclusively to the property identified as Gat No. 17, whereas that of Writ Petition No. 541 of 2025 concerns the property identified as Gat No. 31. Apart from the differing Gat numbers, all material facts and issues presented in both petitions are identical. In light of the commonality of the facts and legal issues involved, it is both expedient and appropriate that the petitions be adjudicated by way of a consolidated order.

4. The Sub-Divisional Officer, in his initial examination, dismissed the appeal presented. Notwithstanding, the Additional Collector, upon a subsequent review, allowed the revision application put forward by respondent No. 3. In doing so, he held that the sale deed in question had been executed during the pendency of a civil suit, thereby precluding the effective mutation entry in favor of the petitioners. The judgment of the Commissioner, which followed, was further challenged before the State Government. However, the petitioners' revision was dismissed by the State Government, leaving them aggrieved and necessitating the filing of the present writ petitions.

5. It is well settled that when an application is made under Section 149 of the Maharashtra Land Revenue Code, 1966 based on a registered sale deed, the statutory duty of the Circle Officer and the Talathi is limited strictly to effectuating the mutation entry as per the registered record. These officers do not possess the authority to adjudicate upon the substantive validity of the sale deed itself. Consequently, neither these subordinate officers nor the superior Authorities acting under the Code are empowered to pass judicial determinations regarding the validity of the sale deed. Such inquiries, if necessary, are within the exclusive purview of the competent Civil Court. It is further noted that a substantive civil suit involving the same parties is pending before the Civil Court, wherein interim orders have been granted in favor of the respondents.

6. In view of the narrowly circumscribed scope of inquiry mandated to the Authorities under the Code, it follows that the Additional Commissioner was without jurisdiction to negate the effect of the sale deed by recording a finding that the mutation entry had been effected during the pendency of the suit. Such a determination exceeds the mandate conferred upon him and is therefore untenable.

7. In view of the foregoing considerations, the impugned orders passed by the Commissioner and subsequently endorsed by the State Government are legally unsustainable and, accordingly, must be set aside.

8. Consequently, it is hereby ordered that the rule is made absolute in terms of prayer clauses (a) to (c) of the present writ petitions.

9. It is further clarified that any observations or determinations made by this Court or by the Authorities under the Code, in the course of adjudicating the rights of the parties in these proceedings, shall not, under any circumstances, bind the Civil Court in its adjudication of the substantive rights of the parties. The Civil Court is duty-bound to decide the substantive suit on its own merits and in strict conformity with the applicable law.

10. It is also needless to state that the conferment of the revenue entry, as herein recorded, shall not in any manner affect or prejudice the interim relief that has been granted by the Civil Court in the pending substantive suit.

11. With this, both the writ petitions stand disposed of in above terms. No order as to costs.

(AMIT BORKAR, J.)