IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9066 OF 2024

Rustom Behram Irani Age 43 years, Indian Inhabitant, Occupation Agriculturist, residing at, Ganesh Krupa, Main Road, Before Gram Panchayat Office, Bordi, Taluka Dahanu, District Palghar. Through his Constituted Attorney Mr.Susheel Hrishikesh Dwivedi	... **Petitioner.**

Versus

1. The State of Maharashtra Through Honourable Revenue Minister State of Maharashtra, Mantralaya, Mumbai, and Repreesented through the Government Pleader, High Court Original Side, PWD Building, Mumbai-400032	
2. The Additional Divisional Commissioner, Konkan Division, Mumbai, having its address at, 1st Floor, Old Secretariat (Annex), Karmaveer Bhaurao Patil Marg, Fort, Mumbai-32	
3. Firoza Khodamorad Zorabian	
4. Sheriar Behram Shaw	
5. Dilshad Bomi Hormazdi All Indian Inhabitants, Age Not Known, Occupation Business, all residing at, Apartment No.7, 3rd Floor, 19 Pali Hill, Bandra (West), Mumbai – 400 050.	... **Respondents.**

Dr. Abhinav Chandrachud a/w. Mr.Sunil Kumar, Mr.Siddharth Singh for the Petitioner.
Mr. H.D. Mulla, AGP for Respondent Nos.1 and 2-State.
Mr. Vineet Naik, Senior Advocate a/w Mr.Sumanth Anchan, Ms.Rati Patni and Mr. Vikrant Dere i/by Wadia Ghandy & Co. for Respondent Nos.3 to 5.

Coram : Sharmila U. Deshmukh, J.
Reserved On : December 04, 2024
Pronounced On : January 20, 2025

JUDGMENT :

1. ***Rule***. With consent of parties, Rule made returnable forthwith and taken up for final hearing.

THE CHALLENGE:

2. By this Petition, exception is taken to the order of Hon'ble Minister dated 7th June, 2024 passed under Section 257 of the Maharashtra Land Revenue Code, 1966 [for short, "**MLRC**"] in Revision filed by the Respondent Nos.3 to 5. The impugned order of Hon'ble Minister has resulted in mutation entry being certified in favour of the Respondent Nos.3 to 5 and cancellation of mutation entry in favour of Petitioner.

FACTUAL MATRIX:

3. The facts of the case are that the Petitioner approached the Talathi reporting acquisition of right in subject property i.e. Gat No.186 and 187, stated to have been sold by the Respondent Nos.3 to 5's father to the Petitioner's father and pencil entry of Mutation Entry No.707 was made in register of mutations. Upon notices being issued to the Respondent Nos.3 to 5, objection was raised to the Mutation Entry before the Tahsildar and by order dated 12th January, 2023, the objection to the pencil entry was upheld and the certification of Mutation Entry No.707 was rejected.

4. The order of Tahsildar was challenged by the Petitioner before the Additional Collector which also came to be rejected vide order dated 2nd November, 2023. The Petitioner's Appeal preferred before the Additional Divisional Commissioner came to be allowed by order dated 24th January, 2024, which order was challenged by the Respondent Nos.3 to 5 before the Hon'ble Minister which came to be allowed by the impugned order leading to the present challenge.

SUBMISSIONS:

5. Dr. Abhinav Chandrachud, Learned Counsel appearing for the Respondent Nos.3 to 5 would submit that on 24th February, 1965, Sale Deed was executed between Behram Sheriyar Irani, i.e. predecessor of the Respondent Nos.3 to 5 and Behram Rustom Irani, i.e. predecessor of the present Petitioner in respect of the subject property. He would submit that Section 149 of the MLRC exempts a person from reporting acquisition where the acquisition is by virtue of registered document and duty is cast upon the Registering Officer to report acquisition to the Talathi. He submits that in the present case the delay in reporting acquisition has been held against the Petitioner, which is unsustainable. He submits that the delay will not obstruct the certification of mutation entry in favour of Petitioner's father.

6. He would further submit that the Tahsildar by entering in the validity of the Sale Deed has questioned the right of Petitioner's predecessor to execute the Sale Deed by holding that he was not an agriculturist. He further points out that the Tahsildar has questioned the capacity of the signatory as also the adequacy of consideration and the vague description in the Sale-Deed. He submits that the Tahsildar's order makes it clear that based on the findings of validity of the Sale-Deed, the Tahsildar accepted the objections raised by the Respondent Nos.3 to 5.

7. He submits that as the Sub Divisional Officer has also ventured into the validity of Sale Deed to hold that the document is suspicious. He would further submit that the Additional Collector has not given any reasoned findings and has rejected the Appeal.

8. He submits that the Additional Divisional Commissioner has rightly considered the statutory provisions to hold that duty is cast upon the Revenue Authorities to report acquisition and the Petitioner cannot be faulted for the delay. He submits that it has also appreciated the settled position in law that the revenue entries are for fiscal purpose and that the submissions on invalidity of the document cannot be entertained by the Revenue Officers which lies within the domain of civil courts. In support he relies upon the following decisions:

(i) ***Shamrao Ganpat Chintamani vs. Kakasaheb Laxman Gorde [2008 (2) Mh.L.J.819];***

(ii) ***Rekha Atmaram Bhoir and Ors. vs. State of Maharashtra and Ors. [2020 SCC OnLine Bom 9238];***

(iii) ***Akhtar Hasan Rizvi vs. Harish R. Bhattad and Ors. [2018 (6) Mh.L.J.494].***

9. *Per contra*, Mr.Naik, Learned Senior Advocate appearing for Respondent Nos.3 to 5 would submit that the reliance upon Section 149 of MLRC is misplaced in absence of the sale deed of the year 1965 being produced. He submits that Mutation Entry No.707 was pencil entry and Rule 17 of Maharashtra Land Revenue Record and Rights and Registers (Preparation and Maintenance) Rules, 1971 [for short, "**Rules of 1971**"] provides that each dispute entered in the register of disputed cases is required to be decided on basis of possession, which inquiry has been conducted by the Tahsildar. He points out to the findings of the Tahsildar on the aspect of possession based on the revenue records that Petitioner's predecessor's name does not appear in the crop cultivation record for the period from 1965 till 2012 whereas the the crop cultivation column as well as the occupant column records the name of the predecessor of the Respondent Nos.3 to 5.

10. He submits that while deciding aspect of possession, the Tahsildar has noted the order of year 2000 in the Petition filed by the Respondent Nos.3 to 5's predecessor to protect the declaration of excess land by the Additional Collector. He submits that by the order dated 12th January, 2023, the Tahsildar upheld the objection to the pencil entry and rejected the certification of Mutation Entry No.707 till the validity of the Sale-Deed is not determined in the civil proceedings, which order has been implemented as subsequently civil suit has been filed by the Petitioner. He would further submit that the Additional Collector has passed reasoned order of 40 pages which has not been annexed to the Petition.

11. Pointing out to the impugned order of the Hon'ble Minister, he submits that the Hon'ble Minister has considered the crop cultivation column to uphold the possession of the Respondent Nos.3 to 5's predecessor since the year 1937 as also the probate proceedings filed by the legal heirs of the deceased-Behram Sheriyar Irani in which this property was included.

12. He submits that the present Petition is at instance of subsequent transferee which is evident from the fact that Petition has been verified by the Power of Attorney of the Petitioner, which Power of Attorney has been executed on same day as the impugned order. He points out that the POA notes that the Sale-Deed is executed by the Petitioner in favour of the constituted Attorney. He submits that the suit was filed on 12th June, 2024 alongwith the present Petition which is also filed on 12th June, 2024. Taking this Court through the grounds of challenge, he submits that Petition is premised on the ground that the impugned order is an *ex-parte* order, which is demonstratively false. He submits that in the civil suit, declaration has been sought about the transactions of the year 1965 being valid and subsisting and outcome of the civil proceedings will govern the mutation entries. In support, he relies on the following decisions:

(i) ***Bhimabai Mahadeo Kambekar vs. Arthur Imports and Exports Company and Others [(2019) 3 SCC 191];***

(ii) ***Suraj Bhan and Ors. vs. Financial Commissioner and Ors. [(2007) 6 SCC 186];***

(iii) ***Shrikant R. Sankanwar and Ors. vs. Krishna Balu Nakudkar [2003 (2) Mh.L.J. 276];***

(iv) ***Suman Verma vs. Union of India and Ors. [(2004) 12 SCC 58];***

(v) ***Narasamma and Ors. vs. State of Karnataka and Ors. [(2009) 5 SCC 591];***

(vi) ***Balwant Singh and Anr. vs. Daulat Singh and Ors. [(1997) 7 SCC 137];***

(vii) ***Appaiya vs. Andimuthu Alias Thangapandi and Ors. [AIR Online 2023 SC 767];***

(viii) ***P. Kishore Kumar vs. Vittal K. Patakar [2023 Online SC 1483].***

13. In rejoinder, Dr.Chandrachud would contend that the issue of possession is irrelevant for the purpose of certification of the mutation entry and cannot override a registered Conveyance Deed. He submits that there is no question of intervening in the probate proceedings in absence of caveatable interest, which in any event do not decide issues of title. He submits that order of High Court in the ULC proceedings did not decide any issue of title. He would further submit that the averments as regards the impugned order is *ex-parte* is incorrect pleading and there are no *malafides* involved. He submits that the execution of POA on the same date as the passing of the order by the Hon'ble Minister is irrelevant.

REASONS AND ANALYSIS:

14. After a period of 57 years of execution of Sale-Deed on 24th February, 1965 and 10 years after the death of the Petitioner's father stated to be the purchaser of the subject property, the Petitioner approached the Talathi in the year 2022 seeking to record the Petitioner's fathers name in the revenue records. What exactly is the inquiry contemplated in such eventuality has been provided in the MLRC and the issue will have to be decided by considering whether the necessary inquiry as contemplated has been carried out by the revenue authorities.

15. Section 149 of MLRC casts an obligation on the person acquiring rights in landed property by various modes stated therein, to report the acquisition to the Talathi within three months from the date of such acquisition with an exception being carved out in respect of person acquiring the rights by virtue of registered document, in which case under Section 154 of MLRC, the registering authority shall send the intimation to the Talathi. The procedure to be followed by the Talathi after receiving report under Section 149 is prescribed in Section 150 of MLRC. Section

149, Section 150 and Section 154 of MLRC, reads as under:

> ***"149. Acquisition of rights to be reported.***—*Any person acquiring by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any rights as holder, occupant, owner, mortgagee, landlord, Government lessee or tenant of the land situated in any part of the State or assignee of the rent or revenue thereof, shall report orally or in writing his acquisition of such right to the Talathi within three months from the date of such acquisition, and the said Talathi shall at once give a written acknowledgement of the receipt of such report to the person making it:*
>
> *Provided that, where the person acquiring the right is minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the Talathi :*
>
> *Provided further that, any person acquiring a right with the permission of the Collector or by virtue of a registered document shall be exempted from the obligation to report to the Talathi :*
>
> *Provided also that, where a person claims to have acquired a right with the permission of the Collector where such permission is required under the provisions of this Code or any law for the time being in force, such person shall on being required by the Talathi so to do produce such evidence of the order by which such permission is given as may be required, by rules made under this Code.*
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> *Explanation I.—The rights mentioned above include a mortgage without possession, but do not include an easement or a charge not amounting to a mortgage of the kind specified in section 100 of the Transfer of Property Act, 1882 (IV of 1882).*
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> *Explanation II.—A person in whose favour a mortgage is discharged or extinguished or lease determined, acquires a right within the meaning of this section.*
>
> *Explanation III.—For the purpose of this Chapter, the term "Talathi" includes any person appointed by the Collector to perform the duties of a Talathi under this Chapter."*
>
> ***150.*** *Register of mutations and register of disputed cases.—(1) The Talathi shall enter in a register of mutations every report made to him under section 149 or any intimation of*

acquisition or transfer under section 154 or from any Collector.

(2) Whenever a Talathi makes an entry in the register of mutations, he shall at the same time post up a complete copy of the entry in a conspicuous place in the Chavdi, and shall give written intimation to all persons appearing from the record of rights or register of mutations to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.

Provided that, where the record of rights are maintained under section 148A by using the storage device, as soon as the Tahsildar in the Taluka receives an intimation under section 154, the Talathi in the Tahsildar office shall send it to all persons appearing from the record of rights or register of mutations to be interested in the mutation and to any other person whom he has reason to believe to be interested therein and also to the concerned Talathi of the village, by short message service or electronic mail or any such device as may be prescribed; and upon receipt of such intimation, the Talathi of the village shall immediately make an entry in the register of mutations :

Provided further that, no such intimation as provided under the first proviso shall be required to be sent by the Talathi in the Tahsildar office to the persons who have executed to document in person before the officer registering the document under the Indian Registration Act, 1908 (XIV of 1908).

(3) When any objection to any entry made under sub-section (1) in the register of mutations is made either orally or in writing to the Talathi, it shall be the duty of the Talathi to enter the particulars of the objections in a register of disputed cases. The Talathi shall at once give a written acknowledgment for the objection to the person making it in the prescribed form.

(4) Disputes entered in the register of disputed cases shall as far as possible be disposed of within one year by a Revenue or Survey Officer not below the rank of an Aval Karkun and orders disposing of objections entered in such register shall be recorded in the register of mutations by such officer in such manner as may be prescribed by rules made by the State Government in this behalf.

(5) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the State Government in this behalf :

Provided that, an entry in the register of mutations shall not be transferred to the record of rights until such entry has been duly certified.

(6) Entries in the register of mutations shall be tested and if found correct, or after correction, as the case may be, shall be certified by any Revenue or Survey Officer not below the rank of an Aval Karkun in such manner as may be prescribed :

Provided that, entries in respect of which there is no dispute may be tested and certified by a Circle Inspector :

Provided further that, no such entries shall be certified unless notice in that behalf is served on the parties concerned.

(7) The State Government may direct that a register of tenancies shall be maintained in such manner and under such procedure as may be prescribed by rules made by the State Government in this behalf.

(8) The Commissioner may specify, from time to time, the storage device for preparation, maintenance and updation of all registers and documents to be maintained under section 148A.

154. *Intimation of transfers by registering officers.—When any document purporting to create, assign or extinguish any title to, or any charge on, land used for agricultural purposes, or in respect of which a record of rights has been prepared is registered under the Indian Registration Act, 1908, the officer registering the document shall send intimation to the Talathi of the village in which the land is situate and to the Tahsildar of the taluka, in such form and at such times as may be prescribed by rules made under this Code."*

16. The Rules of 1971 framed in exercise of powers under Section 328 of MLRC governs the procedure pertaining to the preparation and maintenance of record of rights and registers. Rule 17 prescribes the procedure to be followed for certifying entries in register of mutations and deciding disputes and reads thus:

> ***"17. Procedure to be followed for certifying entries in register of mutations and deciding disputes: -*** *(1) Before proceeding to decide disputes entered in the register of disputed cases as provided in sub-section (4) of Section 150 and certifying the entries in the register of mutations, the certifying officer shall inform the Talathi to that effect in Form XI. On receipt of such information, and at least fifteen days before the date fixed for deciding disputes entered in the register of disputed cases, and for certifying entries made in the register of mutations, the Talathi shall issue notices in Form XII to all persons likely to be interested in such disputes or entries and call upon them to be present at the place along with their Khate Pustikas on the date and at the time fixed for deciding disputes and for certifying entries.*
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> *(2) On the date and at the place and time fixed for deciding disputes, the certifying officer shall read out the mutation entries which are undisputed in the presence of the persons present.*
>
> *If the correctness of such entries is admitted by all the persons present the certifying officer shall record such admission in the register of mutations, and add an endorsement under his signature or his authentication that the entries have been duly certified.*
>
> *If any error in respect of any entry entered in the register of mutations is noticed by the certifying officer, and such error is admitted by the persons interested in the entry who may be present, the certifying officer may correct that entry and certify the corrected entry as aforesaid.*
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> *The certifying officer shall then hold a summary enquiry and decide each dispute entered in the register of disputed cases on the basis of possession, that is to say if a person actually holds possession under a claim of title, he shall be recorded as occupant class I, occupant class II or, as the case may be, Government lessee in the register of disputed cases. If there is a doubt as to the actual possession, the person with the strongest title shall be so recorded, he shall also record in the register of mutations, the order passed by him in respect of the mutation entry disputed, and make an endorsement under passed signature to the effect of the mutation entry as modified by his*

order is certified by him. The order shall contain the names of the parties and witnesses and a brief summary of the evidence produced by either side, together with his findings thereon."

17. As the acquisition was reported by the Petitioner, the Talathi by following the procedure under Section 150 of MLRC entered the report in register of mutations and made pencil entry of Mutation No 707 and issued notices to Respondent Nos 3 to 5, whose names were recorded in the revenue records.

18. Rule 17 of Rules of 1971 limits the parameters of an inquiry into dispute entered into the register of mutations to the aspect of possession and for the reason that mutation entries are meant for fiscal purpose and fixes the liability for payment of land revenue. Looking to the nature of inquiry contemplated by Rule 17 of Rules of 1971, for purpose of certification, the title can be looked into for comparative purpose where there is doubt about actual possession.

19. Now in the present case, the objection of the Respondent Nos.3 to 5 is that they are the owners of the property and are in open, continuous and exclusive and uninterrupted possession since prior to 1937 without any challenge by the Petitioner or his father and that the properties are being cultivated by the Respondent Nos.3 to 5. To support the claim for title and possession, the probate obtained of Will of Behram Sheriyar Irani, which included the subject property, the challenge to the notification as regards the excess agricultural land, the revenue records including 7/12 extracts, mutation entries reflecting the name of Respondent

Nos.3 to 5, payment of all taxes were brought on record. The execution of the Conveyance Deed dated 24th February, 1965 was also disputed on various grounds.

20. The Tahsildar noted that the Sale Deed was executed by the Petitioner's father in the year 1965 who did not report the acquisition during his lifetime and after lapse of 57 years from execution of Sale-Deed and 10 years after death of the Petitioner's father, the Petitioner seeks to record his father's name in the revenue records. While deciding the objections, the Tahsildar has gone into the recitals of the Sale-Deed and has noted that the Petitioner's father was minor at the time of execution of the Deed and the document was not executed by his guardian and also he did not have the necessary status of the agriculturist to purchase the property. The Tahsildar also noted that the document has been presented for registration by one Daulatkhan Peerbhai Alibhai without any description as to his capacity. It further opined that there is no proper description of the property in the Sale-Deed and the consideration is inadequate. Though the Tahsildar has gone into the validity of the Sale-Deed, which is within the domain of the Civil Court of competent jurisdiction, the Tahsildar has not rested its findings only on the validity of the Sale Deed.

21. For purpose of deciding the aspect of possession, the Tahsildar considered the 7/12 extracts for the period from 1954-1955 till date and noted that the crop cultivation column does not record the name of the Petitioner's father. Under Rule 30 of the Rules of 1971, every year during the period when the crops are grown and are standing in the fields, the Talathi visits the villages for inspection of crops and making entries in the register of crops in Form XII. Under Rule 31, during the course of inspection, if the Talathi finds that the person in actual possession is other than the person, who according to the entries in the record of rights is entitled to cultivate the land, he shall enter his name in the register of person in Form XIV and forward the same to the Tahsildar. The Tahsildar is thereafter required to visit the village for making necessary enquiries about the possession of the land by persons mentioned in the Register and make necessary entries in the record.

22. The statutory procedure prescribed ensures that where the land is in actual possession of a person other than the person whose name is recorded in the record of rights, the resultant entries are made. These registers maintained in regular course of their duties by the revenue authorities constitutes proof of actual possession. Admittedly there was no such entry in name of the Petitioner's father in the register of crops and no report of the Talathi in Form XIV that the person in actual possession is other than the person whose name occurs in record of rights. The Tahsildar observed that for the period from 1965 to 2012, the name of the Petitioner's father has not been noted in the crop cultivation column and no such application for recording his name was given, whereas the Respondent Nos.3 to 5's predecessor's name occurs in crop cultivation column. Based on the revenue records, the Tahsildar arrived at a finding of possession in favour of the Respondent Nos.3 to 5. To support its findings on the aspect of possession, the Tahsildar has taken into consideration the probate granted as well as the order passed by this Court in the year 2000, where the challenge was by predecessor of the Respondent Nos.3 to 5 to the excess land claimed under the Ceiling Act. The Tahsildar has thus confined itself to the parameters of inquiry contemplated under Rule 17 and held the predecessor of the Respondent Nos.3 to 5 to be actually in possession under a claim of title. The contention of Dr. Chandrachud that the certification has been rejected on the ground of delay and on basis of invalidity of the Sale Deed is unacceptable as the objections have been decided on the aspect of possession as contemplated by the Rules.

23. Rule 17 of the Rules of 1971 provides that if there is doubt as to actual possession, the person with strongest title shall be so recorded. However, in the present case, it was not necessary to consider the issue about the strongest title as the revenue records unequivocally established that the actual possession of the subject property was with the predecessor of the Respondent Nos.3 to 5. The Tahsildar exercising powers under Section 150(4) to decide the dispute raised to the certification of the Mutation Entry No.707

has rightly upheld the objections to the pencil entry and has directed that the mutation entry is not to be certified till the validity of the same being tested by a Court of Competent forum.

24. The Sub Divisional Officer in an Appeal against the said order has also considered that the Will of the predecessor of the Respondent Nos.3 to 5 bequeaths the said property to Respondent Nos.3 to 5 and till date the land revenue is being paid by the Respondent Nos.3 to 5 and their names are entered into the crop cultivation column and even the notification during the consolidation scheme also includes their name and at no point of time, the predecessor of the Petitioner has raised any objections.

25. Though the Sub Divisional Officer has held that the execution of Deed appears to be suspicious as the document has been submitted for registration by an unconnected third party and there is no proper description of the property, it has rightly held that the order of the competent Civil Court will impact the certification of mutation entry and till that time the objections should be upheld. What is of significance is the finding of the Sub Divisional Officer is that the Sale-Deed does not give a proper description about the property which is the subject matter of the Sale-Deed. As the acquisition of the right in the subject property was the issue in consideration for the purpose of ascertaining the actual property in respect of which the mutation has to be certified, the Sub Divisional Officer is certainly competent to look into the description of the property in the Sale-Deed and therefore, there is no infirmity in the said order.

26. Although it is stated by Dr.Chandrachud that the Additional Collector has not given any reasoned findings, Mr.Naik has submitted that there is a detail reasoned order passed by the Collector which has not been disputed. As the said order of the Collector is not placed on record, this Court does not have the benefit of the findings in the said order.

27. The Additional Divisional Commissioner, who has held in favour of the Petitioner, has considered the provisions of Sections 149 and 150 of the MLRC to hold that the default of the intimating officer and cannot be to the detriment of the purchaser. There cannot be any dispute as regards the provisions of Section 154 of MLRC and admittedly no such intimation was sent however, the silence and inaction on part of the petitioner's predecessor for not taking any steps despite of such inaction for a period of 57 years and the Petitioner reporting the same after a period of 10 years from the date of death of the original purchaser lends credence to the claim of ownership and possession of Respondent Nos 3 to 5.

28. The findings of the Additional Divisional Commissioner that the Revenue Authorities have transgressed into the jurisdiction of the Civil Court cannot be interfered with, however, at the same time, the Additional Divisional Commissioner has failed to note that by reason of reporting of the acquisition to the Talathi, the provisions of Section 150 were triggered by reason of which the necessary inquiry as contemplated under Rule 17 was carried out and the objections were decided on the aspect of possession as prescribed by the said Rule. The order of the Additional Divisional Commissioner confines itself to the default on part of the Registering Authority to intimate the Talathi about the acquisition of the rights while glossing over the inquiry which was also conducted by the Tahsildar as contemplated under Rule 17 of the Rules of 1971.

29. The findings of the revenue authorities, if any, on the validity of Sale Deed will obviously not bind the Civil Court in adjudicating the civil suit which is pending and at the same time, the order is supported by the findings on the aspect of the possession which is in fact the inquiry contemplated under Rule 17 of the Rules of 1971. The conclusion which has been arrived at by the Tahsildar can be supported on the basis of the said findings.

30. It is the Civil Court which will have to examine the issue as regards the validity of the Sale-Deed and the mutation entries will be subject to the outcome of the civil proceedings. Though exemption is granted under Section 149 of the MLRC to report acquisition by registered Sale Deed,and the same cannot be to the detriment of the Petitioner, similarly, the non-performance of the duty by the intimating officer cannot be to the detriment of the Respondent Nos.3 to 5, who from the records appear to be in possession and cultivating the said property. The benefit of default on part of the registering officer in intimating to the Talathi should not result in prejudice to other party, particularly, when there is complete inaction for a period of 57 years in reporting the acquisition.

31. It will also be necessary to peruse the Mutation Entry No.707 and the narrative is that the subject property stands in the name of Behram Sheriyar Irani and has been sold by a registered Sale-Deed of which true copy has been produced to Behram Rustam Irani. The Mutation Entry No.707 further records that by virtue of Mutation Entry No.202, the names of the legal heirs of Behram Sheriyar Irani have been entered on 5th May, 2010. It is therefore clear that the Talathi was informed about the acquisition of right by Behram Rustam Irani on 6th October, 2022, whereas Behram Irani had already expired on 28th November, 2012. Under the provisions of Section 149 of the MLRC, the acquisition by virtue of succession, survivership or inheritance is also required to be reported to the Talathi and the Petitioner who claims to have acquired the properties by succession has not reported the acquisition by succession but has reported the acquisition of the year 1965.

32. The Hon'ble Minister by the impugned order dated 7th June, 2024 noted that the Tahsildar and the Sub Divisional Officer have considered that from the year 1937, the subject property is in the possession of the Respondent Nos.3 to 5 and their predecessor which is evident from the crop cultivation. Although the Hon'ble Minister held that the validity of the Sale-Deed cannot be examined in the revenue proceedings, has thereafter examined the Sale-Deed to come to a finding that the Sale-Deed which is noted in the mutation entry does not have purchaser's signature and there is no identification and that the Petitioner has not been able to establish that the Petitioner is the legal heir of the purchaser.

33. Though the finding of Hon'ble Minister that the guardian of the minor is required to report the acquisition within a period of three months cannot be sustained by reason of third proviso to Section 149 of MLRC, the entire order if not vitiated by reason of the said finding. The Hon'ble Minister has rightly considered the scope of inquiry under Section 150(4) read with Rule 17 of the Rules of 1971 and has taken into consideration the order passed in the year 2000 in the challenge to the acquisition of the excess land, the name of the predecessor of the Respondent Nos.3 to 5 being noted in the notification during the consolidation scheme and therefore the order can be sustained on these findings.

34. Mr.Naik would further submit that the rights in the subject property have already been transferred in favour of the third party who has prosecuted the Petition i.e. Susheel Hrishikesh Dwivedi. There cannot be any bar to the transfer of the rights which will be the subject to the outcome of the civil proceedings. However, it is important to note that the pleadings in the Petition would indicate that the Petition has been verified by the constituted attorney and has been challenged on the grounds that the impugned order was an *ex-parte* impugned order and without hearing the Petitioner on merits. The grounds "a", "c", "d", "e", "f", "g" and "h" refers to the order as an *ex-parte* order and pleads that the same has been passed without hearing the Petitioner on merits.

35. Although Dr.Chandrachud would admit that the Petitioner was heard during the proceedings despite the said fact being pointed by Mr. Naik, there was no Application for amendment of the pleadings. Although no submissions were canvassed on the ground that violation of principles of natural justice, the fact remains that the pleadings on oath proceeds to challenge impugned order on the basis of the order being passed *ex-parte* and without hearing the Petitioner. The conduct of the Petitioner in making incorrect statements on oath and despite being pointed out not making any application for amendment of the pleadings would indicate that the challenge is *malafide* and at the instance of an interested third party.

36. Coming to the citations relied upon by the Petitioner, in the case of ***Shamrao Ganpat Chintamani*** (supra) it was held that it is the legal obligation on part of the registering authority to intimate the acquisition of right, which cannot be disputed. However, in that case, the certification of mutation entry was after one year and the

First Appellate Court had blamed the Plaintiff therein for not moving the authority concerned for certification of the mutation entry and it is in that context that the Court had considered the same. In the present case, the issue has proceeded further as the acquisition of rights was reported and therefore, the procedure which is contemplated was required to be followed and the objections to the certification of the mutation entry has been decided in accordance with the inquiry which is contemplated under Rule 17 of the Rules of 1971.

37. As regards the decision in the case of ***Rekha Atmaram Bhoir*** (supra), there is no quarrel with the proposition that the entries are affected only for fiscal purpose and revenue authorities cannot go into the validity of the registered document.

38. The decision ***Akhtar Hasan Rizvi*** (supra), holds that the revenue authorities has no jurisdiction to declare a document of title as invalid or to make any observations of fraud and fractionation while executing of that document. The said position of law cannot be disputed and has not been disputed by Mr.Naik, however, his submissions are confined to the findings recorded by the Tahsildar and the Sub Divisional Officer while deciding the objections in accordance with the Rule 17 of the Rules of 1971.

CONCLUSION:

39. It is well settled that the mutation entry does not confer any right, title and interest in the property and the issue of right, title and interest will have to be adjudicated in a civil suit which has been filed by the Petitioner. The mutation is only for fiscal purpose, so as to determine the person liable to make the payment of land revenue and it is for the said reason that Rule 17 of Rules of 1971 provides for deciding the dispute on the basis of possession. Under Rule 17, it is only in the case of doubt as to actual possession the name of the person with the strongest title shall be recorded in the revenue records. It is not disputed that from 1937 the name of the Respondent Nos 3 to 5's predecessor and thereafter the names of Respondent Nos.3 to 5 have been entered in the revenue record and the revenue records and the crop cultivation column establishes their continued possession. The predecessor of the Petitioner or the Petitioner not being found to be in possession, the pencil entry of Mutation No 707 in favour of the predecessor of the Petitioner was rightly not certified. The findings of the revenue authorities on the validity of the Sale-Deed will have no effect on the pending civil proceedings.

40. The findings on the aspect of possession would support the impugned order passed by the Tahsildar, Sub Divisional Officer and the Additional Collector and Hon'ble Minister. The mutation entries will be subject to the outcome of the civil suit and it is open for the Petitioner to seek the necessary injunctive relief against the Respondent Nos.3 to 5 in the civil proceedings.

41. In light of the discussion above, the orders of the Tahsildar, Sub Divisional Officer, Additional Collector and the Hon'ble Minister on the aspect of the possession of the subject property in the context of the Rule 17 of the Rules of 1971 cannot be faulted with. Resultantly, the Petition fails and stands dismissed. Rule stands discharged.

[Sharmila U. Deshmukh, J.]