

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

WRIT PETITION NO. 13591 OF 2024

Maruti Jyoti Hirgude (Since Decd) Thr. LRs.

Mrs. Shevanta Maruti Hirgude And Ors **... Petitioners**

Versus

Sagar Narayan Kolhatkar

(Deceased Through LRs)

Smt. Sunita Sagar Kolhatkar & Ors. **... Respondents**

Mr. S. G. Deshmukh *a/w Mr. Balwant Salunkhe for the Petitioners.*

Mr. Prasad Dani, *Sr. Advocate, i/b Mr. Suryajeet P. Chavan for Respondents.*

Mr. Sacchit Bhogle *'B' Panel for Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 18 MARCH 2025.

P.C. :

1) The Petition challenges order dated 1 August 2024 passed by the Hon'ble Minister (Revenue) rejecting the Revision Application preferred the Petitioners and confirming the order dated 10 November 2022 passed by the Additional Divisional Commissioner, Pune. The Additional Divisional Commissioner had allowed the Revision preferred by contesting Respondents and had set aside the orders passed by Additional Collector on 8 June 2020, the Sub Divisional Officer (SDO) dated 28 August 2017 and

Tahsildar, Miraj dated 25 May 2016. The Tahsildar, by order dated 25 May 2016 had made an order of re-grant in respect of lands bearing Revision Survey Nos. 220/4, 221/3 and 225/2 in favour of Petitioners. The order of the Tahsildar was confirmed by the SDO and Additional Collector. The Additional Divisional Commissioner has however set aside the orders passed by the Tahsildar, SDO and Additional Collector essentially relied upon receipt of Rs. 180/- dated 31 July 1964 and Mutation Entry No. 11681 making reference to order dated 23 August 1977. The Additional Divisional Commissioner has held that an order of re-grant was made by the Tahsildar on 23 August 1977 and that therefore there is no question of fresh order of re-grant in favour of the Petitioners.

2) It is contended by the Petitioners that the Mutation Entry No. 11681 is in respect of lands bearing Survey Nos. 440/3 and 441/7 in which no right is claimed by the Petitioners. It is contended that the Petitioners sought re-grant of land bearing Survey Nos. 220/4, 221/3 and 225/2. Mr. Dani, the learned Senior Advocate would rely upon receipt dated 31 July 1964 which reflects all the five Survey Nos. 220/4, 221/3, 225/2, 440/3 and 441/7. Mr. Dani would therefore contend that there is co-relationship between the receipt dated 31 July 1964, order of re-grant dated 23 August 1977 and Mutation Entry No. 11681. It is contended by Mr. Dani that though the order of re-grant dated 23 August 1977 is not readily available, the fact that mutation entry *qua* land bearing Survey Nos. 440/3 and 441/7 was made on the basis of Receipt dated 31 July 1964 read with order dated 23 August 1977, and inference of re-grant *qua* the other three lands bearing Survey Nos. 220/4, 221/3 and 225/2 must necessarily be drawn.

3) Mr. Deshmukh the learned counsel appearing for Petitioners would submit that the receipt dated 31 July 1964 and Mutation Entry No. 11681 were produced for the first time by the contesting Respondents directly before the Additional Divisional Commissioner. Orders passed by Tahsildar, SDO and Additional Collector do not indicate that the said receipt and the Mutation Entry were produced before them. In my view, the said receipt dated 31 July 1964 and Mutation Entry No. 11681 are vital pieces of evidence, which ought to have been produced before Tahsildar. Tahsildar is the fact finding authority, who can peruse the records and can record finding of fact as to whether any order of re-grant was indeed made on 23 August 1977 and whether the same covered land bearing Survey Nos. 220/4, 221/3 and 225/2 also. In my view, therefore, it would be appropriate to remand the proceedings before Tahsildar, who can conduct a fact finding enquiry about existence of order of re-grant dated 23 August 1977 and whether such order of re-grant (if in existence) covers land bearing Survey Nos. 220/4, 221/3 and 225/2.

4) The Petition succeeds partly and I proceed to pass the following order:

i) Order dated 1 August 2024 passed by the Hon'ble Minister, Order dated 10 November 2022 passed by the Additional Divisional Commissioner, Order dated 8 June 2020 passed by the Additional Collector, Order dated 28 August 2017 passed by the Sub Divisional Officer and Order dated 25 May 2016 passed by the Tahsildar, Miraj are set aside.

ii) Proceedings are restored on the file of Tahsildar, Miraj who shall proceed to decide the proceedings afresh after taking into consideration Receipt dated 31 July 1964 and Mutation Entry No. 11681.

iii) Parties shall also be entitled to produce such other evidence as they desire to rely upon before Tahsildar.

iv) Tahsildar shall conduct a fact finding enquiry as to whether any order of re-grant was indeed made in respect of lands bearing Survey Nos. 220/4, 221/3 and 225/2.

v) Tahsildar shall decide the remanded proceedings on its own merits, without being influenced any of the observations made by higher authorities as well as by this Court. All rights and contention of parties on merits are expressly kept open to be agitated before Tahsildar.

vi) Considering long passage of time, Tahsildar shall proceed to decide the remanded proceedings in an expeditious manner, preferably within a period of one year.

5) With the above directions, the Petition is **partly allowed and disposed of**. There shall be no orders as to costs.

[SANDEEP V. MARNE, J.]