IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17673 OF 2024

Eknath Vithu Patil & Ors.	]	***Petitioners***
: Versus :		
The State of Maharashtra, through the Chief Secretary (Revenue) and Ors.	]	***Respondents***

Mr. Harshad Bhadbhade *with Mr. Sachin R. Pawar, for the Petitioners.*

Mr. S.L. Babar, *AGP for State.*

Mr. Akhilesh Dubey *Mr. Amit Dubey a/w. and i/by, Mr. Rajuram Kuleri for Respondent Nos.6 to 10.*

Mr. Vagish Mishra *a/w. Mr. Shubham Sharma, Ms. Upasna Pandey, Mr. Sahil Upadhyay, Mr. Varad Dubey i/by. Law Counsellors, for Respondent Nos.11 and 12.*

CORAM : SANDEEP V. MARNE, J.

DATED : 28 APRIL 2025.

P.C. :

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

2) The petition challenges order dated 14 October 2024 passed by the Hon'ble Minister, Revenue dismissing the Revision Application preferred by the Petitioners and confirming the order dated 27 October

2023 passed by the Additional Commissioner, Konkan Division. By order dated 27 October 2023, the Additional Commissioner had set aside the order dated 19 October 2022 passed by the Additional Collector, Raigad, as well as order dated 28 April 2021 passed by the Sub-Divisional Officer, Panvel and had confirmed the order dated 21 July 2020 passed by the Tehsildar, Panvel.

3) I have heard Mr. Bhadbhade, the learned counsel appearing for the Petitioners, Mr. Dubey, the learned counsel appearing for Respondent Nos.6 to 9, Mr. Mishra, the learned counsel appearing for Respondent Nos.11 to 12 and Mr. Babar, the learned AGP appearing for State.

4) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that Respondent Nos.6 to 9 filed application before the Tehsildar for mutation of their names in respect of land bearing Survey No.62/1, Area OH.82R, Village-Ghot, Taluka-Panvel, District-Raigad. The claim of Respondent Nos.6 to 9 was based on the said land being allotted in favour of their father-Ramesh Shivram Pradhan vide allotment letter dated 21 October 1980. Based on the application made by Respondent Nos.6 to 9, the Tehsildar issued letter dated 21 July 2020 to the Talathi for mutation of names of Respondent Nos.6 to 8 to the land in question. Based on Tahsildar's letter dated 21 July 2020, mutation entry no.1630 was effected mutating the names of Respondent Nos.6 to 9 to the land in question.

5) Respondent No.10, who is the family member of Respondent Nos. 6 to 9, felt aggrieved by Tehsildar's letter dated 21 July 2020 and filed RTS Appeal No.82/2020 before the Sub-Divisional Officer challenging Tehsildar's letter dated 21 July 2020, as well as Mutation

Entry No.1630. The Appeal preferred by Respondent No.10 was allowed by the SDO by order dated 28 April 2021. The SDO set aside Tehsildar's letter dated 21 July 2020, as well as Mutation Entry No.1630 and directed that the name of Ramesh Shivram Pradhan be deleted from the revenue records in respect of land admeasuring 0-82-0 H. Are and entry of 'किर्दसार आकारी पड' be made in the revenue records.

6) Respondent Nos.6 to 9 filed Appeal No.177/2021 before the Additional Collector challenging the order dated 28 April 2021 passed by SDO. However, Respondent Nos.6 to 9 filed purshis for withdrawal of Appeal No.177/2021 and accordingly the Appeal was disposed of as withdrawn by order dated 19 October 2022.

7) Despite withdrawal of the Appeal before the Additional Collector, Respondent Nos.6 to 8 filed Revision No.602/2022 before the Additional Divisional Commissioner, Konkan Division challenging the order dated 19 October 2022 passed by the Additional Collector. The Additional Divisional Commissioner has allowed the Revision preferred by Respondent Nos.6 to 9 by order dated 27 October 2023 and has set aside the order passed by the Additional Collector, as well as Order of the SDO and has confirmed the order dated 21 July 2020 of the Tehsildar. Petitioners, who are not parties to the proceedings before the Tehsildar, SDO, Additional Collector and Additional Divisional Commissioner, directly filed Revision before the Minister-Revenue challenging the order passed by the Additional Divisional Commissioner on 27 October 2023. By the impugned order dated 14 October 2024, the Hon'ble Minister-Revenue has proceeded to reject the Revision preferred by the Petitioners. The order passed by the Hon'ble Minister on 14 October 2024 is subject matter of challenge in the present petition.

8) In my view, once the Appeal was withdrawn by Respondent Nos.6 to 8 before the Additional Collector on 19 October 2022, they could not have filed Revision before the Additional Divisional Commissioner challenging the withdrawal order dated 19 October 2022. Since the Appeal was withdrawn on purshis submitted by Respondent Nos.6 to 8, there was no adjudication of the Appeal filed by the Additional Collector vide order dated 19 October 2022. Therefore, there was nothing that could have been challenged by Respondent Nos.6 to 8 before the Additional Divisional Commissioner.

9) Mr. Dubey would submit that the Appeal was withdrawn by Respondent Nos.6 to 9 on account of settlement that took place between Respondent Nos.6 to 9 and Respondent No.10. He would submit that the real grouse of Respondent No.10 was about mutation of names of Respondent Nos.6 to 9 alone to the land in question and he desired mutation of his name also to the said land. That before the Additional Divisional Commissioner, settlement had taken place between Respondent Nos.6 to 9 on one hand and Respondent No.10 on the other, on account of which the parties felt it unnecessary to prosecute the appeal. He would further submit that Revision was required to be filed before the Additional Commissioner as the effect of SDO's order dated 28 April 2021 to set aside Mutation Entry No.1630 and to make an entry of 'किर्दसार आकारी पड' in the revenue records.

10) Even if the contention of Mr. Dubey is to be accepted as correct and if indeed there was any settlement between Respondent Nos.6 to 9 and Respondent No.10, parties could have applied to the Additional Collector for recall of order dated 19 October 2022 and for adjudication of the Appeal on merits or disposal of the same by consent. In no case, Respondent Nos.6 to 9 could have directly filed Revision before the Additional Divisional Commissioner. The Revision was clearly not maintainable as the Additional Collector did not adjudicate the merits of the case on account of withdrawal of the Appeal on 19 October 2022. The Additional Commissioner has thus committed gross error in entertaining the Revision preferred by Respondent Nos.6 to 9. The correct course of action was to file an application before the Additional Collector for restoration of Appeal No.177/2021 and for its adjudication on merits.

11) Since the order passed by the Additional Divisional Commissioner on 27 October 2023 suffers from serious jurisdictional error, Hon'ble Minister (Revenue) ought to have set aside the same. The Hon'ble Minister has thus erred in dismissing the Revision preferred by the Petitioners.

12) At this stage, Mr. Dubey would question the *locus* of the Petitioners to maintain Revision before the Hon'ble Minster (Revenue). In my view, it is not necessary at this stage to decide the locus of the Petitioners either to maintain Revision before the Hon'ble Minister or to file the present petition. What is necessary to note is the jurisdictional error committed by the Additional Divisional Commissioner in entertaining Revision against mere withdrawal order dated 19 October 2022. The Additional Divisional Commissioner ought to have appreciated the position that the SDO had set aside Mutation Entry No.1630 and had directed making of entry 'किर्दसार आकारी पड' in respect of the land admeasuring 82 Ares by his order dated 28 April 2021. Withdrawal of the Appeal preferred by Respondent Nos.6 to 9 had resulted in confirmation of SDO's order dated 28 April 2021. The Additional Divisional commissioner did not have jurisdiction to entertain the Revision directly against the SDO's order dated 28 April

2021. Thus, the orders passed by the Additional Divisional Commissioner and by the Hon'ble Minister (Revenue) are clearly erroneous and are liable to be set aside.

13) As observed above, the correct course of action for Respondent Nos.6 to 9 was to file an application for recall of order dated 19 October 2022 and for hearing of the Appeal on merits or its disposal by way of consent. Mr. Bhadbhade would fairly submit that Petitioners would object if Appeal No.177/2021 is restored on the file of Additional Collector for being decided on merits. He would however submit that Petitioners be given an opportunity to intervene in the said Appeal. Mr. Dubey would strenuously oppose grant of any liberty to Petitioner to intervene in Appeal preferred by Respondent Nos. 6 to 9. The issue of locus of Petitioners to intervene in the Appeal can be decided by the Additional Collector. In my view therefore, it would be open for the Petitioners to file an application before the Additional Collector which application will have to be decided on its own merits.

14) The petition succeeds partly and I proceed to pass the following order:

(i) Order dated 27 October 2023 passed by the Additional Divisional Commissioner, Konkan Division, as well as order dated 14 October 2024 passed by the Minister-Revenue are set aside. Appeal No.177/2021 shall stand restored on the file of the Additional Collector, Raigad who shall proceed to decide the same on its own merits without being influenced by any of the observations made in the present order.

(ii) Petitioners would be at liberty to file an application for intervention in Appeal No.177/2021 before the

Additional Collector, who shall decide the same on its own merits.

15) With the above directions, the petition is **partly allowed** and disposed of. There shall be no order as to costs.

16) At this stage, Mr. Bhadbhade would pray for continuation of order of *status-quo* dated 14 December 2023 by inviting my attention to para-2 of the said order in which this Court has recorded the submission on behalf of the Petitioners that Respondent Nos.6 to 10 have already sold the land to a third party for a consideration of Rs.2 crores. This Court has set aside the order passed by the Additional Divisional Commissioner, Konkan Division and order passed by the Hon'ble Minister (Revenue) which would have the effect of revival of SDO's order dated 21 April 2021. Thus, as of now the entry 'किर्दसार आकारी पड' shall continue to reflect in the revenue records and therefore there is no question of Respondent Nos.6 to 10 or their purchasers (Respondent Nos.11 and 12) creating any further third party rights in respect of the land in question during pendency of the Appeal before the Additional Collector.

NEETA SHAILESH SAWANT Digitally signed by NEETA SHAILESH SAWANT Date: 2025.04.30 10:16:10 +0530

[SANDEEP V. MARNE, J.]