

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

WRIT PETITION NO. 17956 OF 2024

Shamrao Hiranman Fuge through his
legal heirs Nirmala Shamrao Fuge
and Ors.

...Petitioners

V/s.

Madhav Vinayak Dev and Ors.

...Respondents

**WITH
WRIT PETITION NO. 12780 OF 2024**

Babita Subhash Nelage and Ors.

...Petitioners

V/s.

Chhaya Shivajirao Kadam and Ors.

...Respondents

**WITH
WRIT PETITION NO. 15716 OF 2024**

Babita Subhash Nelage and Ors.

...Petitioners

V/s.

Shobha Kishor Kadam and Ors.

...Respondents

**WITH
WRIT PETITION NO. 17958 OF 2024**

Kavita Yogesh Behl

...Petitioner

V/s.

Madhav Vinayak Dev and Ors.

...Respondents

**WITH
WRIT PETITION NO. 17957 OF 2024**

Rajesh Mangesh Behl Since
Decd. Through Its Legal Heirs
and Neelima Rajesh Behl and Ors.

...Petitioners

V/s.

Rajshree Sudhir Kadam and Anr.

...Respondents

**WITH
WRIT PETITION NO. 17959 OF 2024**

Kavita Yogesh Behl and Ors.

...Petitioner

V/s.

Shobha Kishore Kadam and Ors.

...Respondents

Mr. Mandar Soman a/w Mr. Niranjan Bhavake a/w Ms. Drishti Madhani a/w Ms. Swamini Ghakur a/w Mr. Anurag Ramekar i/b Bhavake & Associates for the Petitioners in WP/17956/2024, WP/17957/2024, WP/17958/2024, WP/17959/2024.

Mr. A.Y. Sakhare, Senior Advocate i/b Mr. Vivek V. Salunke for the Petitioners in WP/12780/2024 & WP/15716/2024.

Mr. Girish Godbole, Senior Advocate i/b Mr. Kaustubh Thipsay a/w Deepashikha Godbole for Respdt No.1 in WP/12780/2024, WP/15716/2024, WP/17957/2024, WP/17959/2024 and for Respdt. No.18 in WP/17956/2024, WP/17958/2024.

Mr. Akshay Petkar i/b Mr. Venkatesh Shinde for Respondent No.22 in WP/17958/2024 and WP/17956/2024, for Respondent No.6 in WP/17959/2024, for Respondent No.3 in WP/17957/2024, for Respondent No.12 in WP/12780/2024 and for Respondent No.25 in WP/15716/2024.

Mr. Akshay Petkar i/b Mr. Mayuresh Ingale for Respondent No.26 in WP/17958/2024 and WP/17956/2024, for Respondent No.10 in WP/17959/2024, for Respondent No.7 in WP/17957/2024, for Respondent No.16 in WP/12780/2024 and for Respondent No.29 in WP/15716/2024.

Mr. Sachhit Bhogle, B' Panel for Respondent-State.

CORAM: SANDEEP V. MARNE, J.

Dated: 21 April 2025.

P.C.:

1) These Petitions challenge orders dated 16 July 2024 passed by the Hon'ble Minister, Revenue dismissing the Revision Applications filed by the Petitioners and confirming the orders dated 30 May 2023 passed by the Additional Divisional Commissioner, Pune. By his order dated 30 May 2023, the Additional Divisional Commissioner had set aside the order passed by Additional Collector on 30 September 2022, by which the Additional Collector had allowed the appeal preferred by the Petitioners and had set aside the orders dated 6 February 2019 passed by the Sub Divisional Officer/Deputy Collector, Land Acquisition (SDO). The SDO had dismissed the appeals preferred by the Petitioners and had refused to set aside Mutation Entry No.1275.

2) I have heard Mr. Sakhare, the learned senior advocate appearing for the Petitioners in Writ Petition Nos.12780 of 2024 and 15716 of 2024, Mr. Mandar Soman, the learned counsel appearing for Petitioners in Writ Petition Nos.17956 to 17959 of 2024, Mr. Godbole, the learned senior advocate appearing for the respective Respondents in the Petitions, Mr. Petkar, the learned counsel appearing for the respective Respondents in the Petitions and Mr. Bhogle, the learned AGP for Respondent-State.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, the moot question that is sought to be raised by the Petitioners in the present Petitions is whether the Sale Deed executed in their favour on 20 January 1994 and which was lodged for registration on the same day, but registered on 8 November 2001 would date back to the date of execution of Sale Deed. It appears that though the Sale Deed is shown to have been executed on 20 January 1994 and was also lodged for registration, the same was not registered for 7 long years and came to be registered only on 8 November 2001. In the meantime, original landowners executed the registered Sale Deed on 17 October 1998 in favour of Kadam family. Based on the registered Sale Deed, Mutation Entry No.1275 was certified in the name of Kadam family. Petitioners filed appeal before the SDO in the year 2012 challenging the Mutation Entry No.1275 and their appeal came to be dismissed by the SDO by order dated 6 February 2019. Petitioners however, succeeded before the Additional Collector, who allowed their appeal by order dated 30 September 2022 and set aside the order of SDO. The Additional Divisional Commissioner and the Hon'ble Minister have however ruled in favour of Kadam family (contesting Respondents).

4) It appears that cross proceedings were filed by Kadam family challenging Mutation Entry Nos.2078, 4013 and 1806, which were made in favour of the branch of the Petitioners. By order dated 6 February 2019 the SDO allowed the appeal

preferred by Kadam family and set aside the said mutation entries. Additional Collector however, reversed the order passed by the SDO which had effect of revival of Mutation Entry Nos.2078, 4013 and 1806. However, Additional Divisional Collector and Hon'ble Minister have set aside the order passed by the Additional Collector.

5) The net effect of the orders passed in cross proceedings filed by the parties is that, as of now, Mutation Entry No.1275 made in favour of Kadam family continues to survive.

6) Thus, what is contended by the Petitioners is that they have acquired title in respect of the land in question on the strength of the Sale Deed executed in their favour in the year 1994. They contend that mere subsequent registration of the Sale Deed does not affect acquisition of title in their name in the year 1994. Reliance is placed on provisions of Section 47 of the Registration Act, 1908 and on judgment of Hon'ble Apex Court in ***Kanwar Raj Singh (D) through legal representatives V/s. GEJO(D) through legal representatives and others***¹.

7) On the other hand, the contesting Respondents also rely on judgments in support of their contention that subsequent registration would not date back the transaction of sale and would not invest title in the name of purchaser from the date of execution of unregistered Sale Deed. In my view, it is not

¹ (2024) 2 SCC 416

necessary to rule on the issue that is sought to be raised by the rival parties. There is no dispute to the position that Special Civil Suit No.1953 of 2023 is filed by some of the Petitioners challenging Sale Deed 17 October 1998 (registered on 21 December 1998). In the said Suit, this very issue is raised for consideration. It would be relevant to reproduce the prayers in the said Suit, which read thus:-

- a) The Hon'ble Court be pleased to declare that the Plaintiffs are the absolute owners of the suit property, i.e. land bearing Survey No.182/1, i.e. old Survey No.839/1 admeasuring area 05 Hectares 18 Ares at Village Wadmukhwadi i.e. old Charholi Budruk.
- b) The Hon'ble Court be pleased to declare that the document, titled as Sale Deed executed on dated 11th September, 2000 at Serial No.5208/2000 by the Defendant No.1 in favour of the Defendant No.10, in respect of an area admeasuring 1 Hectare 55 Ares from the land bearing Survey No.182/1. i.e., old Survey No.839/1, is illegal, bogus and void ab-initio and not binding on the legal rights of the Plaintiffs.
- c) The Hon'ble Court be pleased to declare that the document, titled as Sale Deed executed on dated 17th October 1996 and Registered on dated 21st December 1996 by the Defendant No.2 to 9 in favour of the Defendant No.11, in respect of an area admeasuring 2 Hectare 59 Ares from the land bearing Survey No.182/1, i.e., old Survey No.839/1, is illegal, bogus and void ab-initio and not binding on the legal rights of the Plaintiffs.
- d) The Hon'ble Court be pleased to restrain the Defendant No.10 and 11 by way of permanent injunction, from disturbing the vacant and peaceful possession of the Plaintiffs over the suit property either by themselves, their agents, servants, hired goons, etc.
- e) The Hon'ble Court be pleased to restrain the Defendant No.10 and 11 by way of permanent injunction, from creating third party interest in respect of the suit property, by taking undue advantage of their names are mutated on

the 7/12 extract over the land bearing Survey No.182/1, Charholi Budruk, Taluka Haveli, District Pune.

- f) Ad-interim reliefs, in terms of prayer Clause (a), may kindly be pleased.
- g) The Plaintiffs may kindly be awarded costs of the suit.

8) Thus, the civil court would decide the issue as to whether the Sale Deed executed in favour of the Petitioners in the year 1994 would invest title in respect of the suit property in their favour or whether the contesting Respondents (Kadam family) would acquire ownership in respect of the suit property on the strength of registered Sale Deed executed in their favour. This issue need not be decided in the proceedings instituted under the provisions of Maharashtra Land Revenue Code, 1966. Therefore, though the Hon'ble Minister may have recorded findings on the effect of unregistered Sale Deed, which is registered subsequently, in my view said finding would not bind the civil court in any manner. The revenue entries made for fiscal purposes would obviously be subject to the decree that would be passed by the civil court. Some of the Petitioners have already filed civil suit challenging execution of Sale Deed in favour of Kadam family. Civil court would decide whether the said Sale Deed is valid in the eyes of law or not. While deciding the correctness of orders passed by the revenue authorities, this Court is not expected to give ruling on the issue of effect of subsequent registration of an unregistered Sale Deed. Proper course of action is to await decision of civil court in Civil Suit No.1953 of 2023 or in any other suit that the affected parties may

file challenging the Sale Deed executed in favour of Kadam family.

9) In that view of the matter, I am not inclined to interfere in the impugned order passed by the Hon'ble Minister. However, nothing observed by any of the revenue authorities in their respective orders shall come in the way of rival parties prosecuting /defending the suit(s) before the civil court. The decree that would be passed by the civil court would ultimately be binding on the revenue authorities. If Petitioners succeed in the Suit, their names can be mutated to the revenue records. Subject to clarification above, the Writ Petitions are **disposed of.**

[SANDEEP V. MARNE, J.]