



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

WRIT PETITION NO.5681 OF 2015

Gulshankumar Nanakchand Mehta
(deceased) through heirs
Mukesh Gulshankumar Mehta and Anr. ... Petitioners
versus
Mehmood Hasan Haji Mohammad Kadri
and Ors. ... Respondents

WITH
INTERIM APPLICATION NO.90 OF 2025
WITH
INTERIM APPLICATION NO.15274 OF 2023
WITH
INTERIM APPLICATION NO.2082 OF 2024

Mr. S.M.Gorwadkar, Sr. Advocate with Mr. S.H.Gangal i/by Mr. Niranjan Mogre for Petitioners.

Mr. Narendra Walawalkar, Sr. Advocate with Mr. Suresh Sabrad, Mr. Jeetendra Sachhdev, Ms. Neha Zanje, Mr. Aniket Gharat, Ms. Eshwaree Kudakar i/by JS Legal for Respondent Nos.3 to 10.

CORAM: N.J.JAMADAR, J.

DATE : 20 AUGUST 2025

P.C.

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally.
2. Heard the learned Counsel for the parties.
3. This Petition under Article 227 of the Constitution of India assails the legality, propriety and correctness of an order dated 21 October 2014 passed by the Additional Divisional Commissioner, Konkan Division in Revision

Application No.460 of 2012, whereby the Additional Divisional Commissioner condoned the delay in preferring the Revision Application and set aside the judgment and order dated 18 September 2010 passed by the Additional Collector, Raigad-Alibag in Appeal No.170 of 2010 and thereby cancelled the mutation entry No.4233 in respect of the subject land admeasuring 2200 sq. mtrs., out of the land bearing Survey No.159/2 admeasuring 1H 57.3 Ares at Village Shirdhon, Tal. Panvel, Dist. Raigad.

4. Parmanand Oberoi had purchased the land bearing Survey No.159/2 under Section 32G of the Maharashtra Tenancy and Agricultural Lands Act, 1948, on 18 October 1980. On 2 March 1995, Gulshankumar Mehta, the Petitioners father purchased 22 Are land out of the said Survey No.159/2 under a registered Sale Deed. The name of the Petitioners father was, however, not recorded in the record of rights of the subject land.

5. In the meanwhile, Tahasildar, Panvel on Complaint No.13 of 2006 filed by the Respondent No.1 challenging the Mutation Entry No.3676, cancelled the said mutation entry. Though the Petitioner's father had filed an Intervention Application along with a copy of the registered sale deed, the Tahasildar did not order mutation of the name of the Petitioner's father. Thus, the Petitioner's father filed RTS Appeal No.192 of 2008 before the Sub-Divisional Officer. By an order dated 15 October 2009, the said appeal came to be dismissed.

6. The predecessor in title of the Petitioners filed Second Appeal being Appeal No.170 of 2010 before the Additional Collector, Raigad. By a judgment and order dated 18 September 2010, the Additional Collector allowed the said appeal and set aside the judgment and order in Appeal No.192 of 2008, and directed that the name of the predecessor in title of the Petitioners be mutated to the record of rights of the subject land pursuant to the registered sale deed dated 2 March 1995.

7. Respondent Nos.3 to 10 challenged the aforesaid order of the Additional Collector before the Additional Divisional Commissioner in Revision Application No.460 of 2012. By the impugned order, the Additional Divisional Commissioner was persuaded to allow the Revision Application observing, inter alia, that the subject land was purchased by Respondent Nos.3 to 10 under the registered sale deed dated 5 March 2009 and their names were already mutated to the record of rights of the subject land, and, yet, the Additional Collector allowed the appeal without impleading Respondent Nos.3 to 10 as the parties to the said appeal and providing an opportunity of hearing. Secondly, the sale of the subject land was in contravention of the provisions of said Act, 1948 as the permission of the Competent Authority was not obtained.

8. I have heard Mr. Gorwadkar, the learned Senior Advocate for the Petitioners and Mr. Walawalkar, the learned Senior Advocate for Respondent

Nos.3 to 10. With the assistance of the learned Counsel for the parties, I have perused the material on record.

9. An endeavour was made by Mr. Gorwadkar to urge that the Additional Divisional Commissioner exceeded the remit of his jurisdiction in examining the legality and validity of the registered instrument, under which the Petitioners father had acquired the subject land. The Authorities under the Maharashtra Land Revenue Code, 1966 are not competent to examine the legality and validity of the registered instrument.

10. Mr. Walawalkar, learned Senior Advocate for Respondent Nos.3 to 10 submitted that the transaction was in contravention of the provisions of the Act, 1948, was one of the reasons which weighed with the Additional Divisional Commissioner. The principal reason was the failure on the part of the Additional Collector to adhere to the principles of natural justice as the Additional Collector had allowed the appeal without providing an opportunity of hearing to the Respondent Nos.3 to 10 who had purchased the subject land after obtaining the permission of the Competent Authority and whose names were also mutated to the record of rights of the subject land.

11. In the wake of aforesaid submission, Mr. Gorwadkar urged that, in that case, the Additional Divisional Commissioner ought to have remitted the matter back to the Additional Collector.

12. Mr. Walawalkar submitted that he is not averse to the aforesaid

proposition.

13. From the perusal of the impugned order, it becomes evident that the failure on the part of the Additional Collector to give an opportunity of hearing to Respondent Nos.3 to 10, whose names were already mutated to the record of rights of the suit land, primarily weighed with the Additional Divisional Commissioner. It was incumbent upon the Petitioners to implead Respondent Nos.3 to 10 as party Respondents to the said appeal and also upon the Additional Collector to provide an efficacious opportunity of hearing to Respondent Nos.3 to 10. The Additional Divisional Commissioner was, therefore, justified in interfering with the order passed by the Additional Collector in flagrant violation of the principles of natural justice and fundamental principles of judicial process.

14. In the aforesaid view of the matter, without delving into the merits of the matter, this Court is of the view that Appeal No.170 of 2010 is required to be remitted back to the Additional Collector, Raigad-Alibag for afresh determination after providing an opportunity of hearing to all the parties, including Respondent Nos.3 to 10. As the said appeal was instituted in the year 2010, certain directions for expeditious hearing and determination of the said appeal are also required to be issued.

15. Hence, the following order :

ORDER

- (i) The Writ Petition stands partly allowed.
- (ii) The impugned order stands modified as under :
 - (a) Revision Application No.460 of 2012 stands partly allowed.
 - (b) The order passed by the Additional Collector in Appeal No.170 of 2010 stands quashed and set aside.
 - (c) Appeal No.170 of 2010 stands restored to the file of the District Collector, Raigad-Alibag.
 - (d) District Collector shall decide Appeal No.170 of 2010 afresh after providing an effective opportunity of hearing to all the parties.
 - (e) The Petitioners – appellants in Appeal No.170 of 2010 shall amend the appeal memo to implead Respondent Nos.3 to 10 as party Respondents thereto.
 - (f) The parties, including Respondent Nos.3 to 10, shall appear before the District Collector on 9 September 2025.
 - (g) The District Collector, Raigad-Alibag shall make an endeavour to hear and decide Appeal No.170 of 2010 as expeditiously as possible and, preferably, within a period of six months from the scheduled date for the appearance of the parties.
- (iii) It is clarified that all contentions of all the parties are kept open for consideration, and, this Court has not entered into the merits of the matter.
- (iv) Rule made absolute to the aforesaid extent.

(iv) All Interim Applications stand disposed.

(N.J.JAMADAR, J.)