Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2219 OF 2025

Waman Kanha Mhatre & Ors. … Petitioners

V/s.

State of Maharashtra,
the Revenue Minister,
Ministry of Revenue & Ors. … Respondents

Mr. Vishal Kanade, Janhavee Joshi a/w Akash Warang, for petitioners.

Ms. M. S. Bane, AGP for State – respondent.

Mr. S. S. Patwardhan a/w Ajit Savagave for respondent No.6.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 17, 2025

P.C.:

1. **Rule.** Rule is made returnable forthwith.

2. The present petition challenges the mutation entries effected in favor of respondent No. 6, which were based on the consent decree passed in Special Civil Suit No. 34 of 1970 on 7 December 1973. Relying upon the said consent decree, respondent No. 6 filed an application on 2 November 2020 seeking the inclusion of her name in the revenue extract. Exercising the power conferred under Section 150 of the Maharashtra Land Revenue Code, 1966 (hereinafter "the Code"), the Revenue Authority duly recorded respondent No. 6 as the legal representative with respect to the properties that were the subject matter of Special Civil Suit No. 34 of 1970. Following such an entry, the petitioners sought redress by challenging the order before the Special Divisional Officer, whose subsequent determination resulted in the dismissal of the petitioners' appeal.

3. On appeal, respondent No. 4 confirmed the order, thereby affirming the validity of the earlier determination. Moreover, the petitioners' revision application submitted before respondent No. 5 —the Deputy Divisional Commissioner, Konkan Division, Mumbai was permitted, a matter which was subsequently referred to the State Government as a second revision under Section 257 of the Code. In examining the merits of the parties' respective rights, respondent No. 1 recorded the finding that one Panglya was not a party to the suit and that his share in the joint family properties did not fall within the subject matter of the suit. Consequently, it was held that the claim of respondent No. 6, in her capacity as the legal representative of Panglya, remained unaffected by the consent terms agreed upon by the parties.

4. A careful perusal of the consent terms as recorded before the Civil Court reveals that respondent No. 6 unequivocally stated that she did not desire any share in the joint family properties. Additionally, she expressly undertook to release her rights as legal representative with respect to the properties delineated in the suit. Accordingly, with respect to the actions of the Revenue Authorities, it is incumbent upon them to confine their entries strictly to the representations made by respondent No. 6, particularly her clear relinquishment of any rights in the properties that were the subject matter of Special Civil Suit No. 34 of 1970.

5. It is further brought to the Court's attention that respondent No. 6 has since filed an application seeking the recall of the consent terms, contending that Panglya was not a party to the suit, and asserting additional grounds including allegations of fraud and the claim that the thumb impression affixed was not her own. On this basis, she argues that the decree passed in the suit is not binding upon her. Notwithstanding these submissions, it remains for the Civil Court to adjudicate respondent No. 6's application on its own merits. In contrast, the Revenue Authorities are obligated to act strictly in accordance with the record as presented before the Civil Court. In light of the foregoing, it is my considered opinion that respondent No. 1 was not justified in interfering with the order passed by the Deputy Divisional Commissioner, Konkan Division, Mumbai.

6. In view of the determinations herein, the order is hereby rendered absolute in accordance with the provisions set forth in prayer clause (b).

7. It is expressly clarified that the Civil Court shall decide respondent No. 6's application on its own merits, without being influenced by the observations contained in this order or in the impugned orders.

8. The writ petition is, accordingly, disposed of in above terms. No order as to costs.

(AMIT BORKAR, J.)