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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3372 OF 2025

The Tata Power Company Limited & Anr. … Petitioners
V/s.
State of Maharashtra,
Through Its Addl. Chief Secretary,
Revenue & Forest Department & Ors. … Respondents

Mr. Bhushan Deshmukh with Mr. H.N. Vakil and Mr. Samkit Shah i/by Mulla and Mulla and Craigie Blunt & Caroe for the petitioners.

Mr. O.A. Chandurkar, Addl. G. P. with Ms. V. S. Nimbalkar, AGP for the State-respondent Nos.1 to 4.

Mr. Tejesh Dande with Bharat Gadhavi, Vishal Navale, Sarvesh Deshpande, Mansi Dande, Trushna Shah, Vinayak Shelar, Aniket Shitole and Pratik Sabrad i/by Bharat Gadhavi for respondent No.5.

CORAM : AMIT BORKAR, J.

DATED : MARCH 26, 2025

P.C.:

1. The petitioners, by way of the present writ petition instituted under Article 226 of the Constitution of India, have assailed the legality, validity, and propriety of the order dated 7th January 2025 passed in Revision Application No.3423/1822/P.K.No.394/J-5 of 2023, preferred by respondent No.5. The said revision arose from proceedings initiated under Section 135 of the Maharashtra Land Revenue Code, 1966, which confers authority upon the competent revenue authorities to undertake survey and measurement of land as per the provisions of the said Code.

2. The petitioners contend that they had initially approached the office of the Taluka Inspector of Land Records (TILR) by submitting an application bearing M.R. No.1448 of 2009 dated 11th June 2009, seeking survey and demarcation of land bearing Survey No.15 situate at Village Shedani. However, owing to resistance and opposition from certain local villagers, the proposed survey work could not be completed. The TILR, by communication dated 4th November 2009, duly apprised the petitioners of the said impediment. Subsequently, on 15th May 2013, the Survey Officer proceeded to conduct the survey and demarcation of the said land after issuing due notice to the adjoining landholders and a panchnama was accordingly drawn on completion of the exercise.

3. Thereafter, on 22nd August 2013, the petitioners submitted an application before the Deputy Superintendent of Land Records, praying for effecting necessary correction in the demarcation and issuance of a corrected "C" Form in relation to the survey and demarcation earlier conducted on 15th May 2013. The said application was numbered as M.R. No.5282 of 2012. Upon due consideration, the Deputy Superintendent of Land Records, by order dated 21st August 2015, proceeded to cancel the earlier measurement and map prepared in M.R. No.5282 of 2012 and issued a corrected "C" Form in favour of the petitioners.

4. Being aggrieved by the said action, respondent No.5

preferred Appeal No.36 of 2016 challenging the order dated 21st August 2015, contending that the cancellation of the earlier measurement and the issuance of the corrected "C" Form was impermissible. The Deputy Superintendent of Land Records, upon hearing the parties, allowed the said appeal by order dated 25th September 2017 and set aside the order dated 21st August 2015. Aggrieved by the reversal, the petitioners preferred RTS Appeal No.4368 of 2018 before the Deputy Director of Land Records, who by a reasoned order dated 18th March 2021, allowed the appeal and restored the corrected measurement entry in favour of the petitioners.

5. Respondent No.5, being dissatisfied with the order dated 18th March 2021, invoked the writ jurisdiction of this Hon'ble Court by filing a writ petition. This Court, while disposing of the said writ petition, granted liberty to respondent No.5 to file a revision application before the appropriate authority under the State Government. Pursuant thereto, the Revenue Minister, State of Maharashtra, vide order dated 31st January 2024, set aside the order passed by the Deputy Director of Land Records dated 18th March 2021. Aggrieved by the said decision of the Revenue Minister, the petitioners instituted Writ Petition No.4084 of 2024 before this Court, which came to be disposed of by order dated 30th April 2024 with a direction to restore the revision for fresh consideration by the Principal Secretary (Appeal and Revision), State of Maharashtra. The Principal Secretary, upon granting hearing to both sides and after considering the respective submissions, proceeded to pass the impugned order whereby the revision application filed by respondent No.5 has been allowed. Hence, the petitioners have approached this Court in the present writ petition, challenging the said order passed by the Principal Secretary.

6. Learned Advocate appearing on behalf of the petitioners has drawn the attention of this Court to two separate conveyance deeds, both dated 10th October 1936, in support of his contention that the area admeasuring 41 acres and 37 gunthas, described as comprising 'rivers and nallahs' in the property description, stood duly conveyed in favour of the petitioners. It is the submission of the learned Advocate that there were two distinct conveyances executed on the said date: one in respect of the area admeasuring 43.27 acres described as ‘rivers and nallahs’, and the other in respect of a separate and independent area admeasuring 41 acres and 37 gunthas. He submitted that both parcels of land were the subject matter of independent and distinct sale transactions and that the rights of the petitioners flowed from each of these instruments independently.

7. It was further submitted that the revisional authority has committed a manifest error in conflating the two distinct parcels of land and proceeding on the erroneous assumption that both areas constituted a single entity comprising 'river and nallah', thereby concluding that only one such area was conveyed to the petitioners. On such misconstruction, the revisional authority proceeded to exclude the area which was the subject matter of the second conveyance from the petitioners' entitlement, which, according to the petitioners, was wholly impermissible, especially considering the limited scope of jurisdiction available to the revisional authority under the Maharashtra Land Revenue Code, 1966.

8. It was further urged that, in any event, the revisional authority could not have granted relief to respondent No.5 without recording a clear and cogent finding as to how the correction carried out in the revenue records prejudicially affected the rights of respondent No.5. The learned Advocate submitted that no such finding has been recorded, nor has there been any objective assessment of the alleged manner in which respondent No.5's right stood affected. In the absence of such finding, it was not open for the revisional authority to disturb the order passed in favour of the petitioners.

9. The learned Advocate further submitted that the Deputy Director of Land Records, while setting aside the earlier adverse order, had granted liberty to respondent No.5 to carry out the measurement of their land by following the procedure of *nimtana*. He submitted that the order dated 18th March 2021 passed by the Deputy Director of Land Records was equitable and balanced in nature, ensuring protection of the rights of both parties, and as such, there was no justification for the revisional authority to interfere with the same.

10. Per contra, the learned Advocate appearing on behalf of respondent No.5 contended that the authorities under the Maharashtra Land Revenue Code, 1966, failed to take into consideration the material aspect that the measurement and correction of revenue records, as carried out by the authorities, directly affected the rights of respondent No.5. It was submitted that any such correction, in the absence of affording an opportunity to respondent No.5 and without a proper adjudication, was liable to be set aside.

11. It was further submitted that, in fact, only one conveyance deed was executed in favour of the petitioners on 10th October 1936, and that the claim of the petitioners in respect of two independent parcels of land comprising river and nallah is wholly unsustainable. According to respondent No.5, the petitioners are entitled to assert rights only over one such area, as reflected in the sole conveyance deed, and not beyond. It was, therefore, submitted that the petitioners' claim to the second area is not supported by any legally admissible or valid document, and the revisional authority was justified in interfering with the order of the Deputy Superintendent of Land Records.

12. Having heard the learned counsel for the respective parties and upon perusal of the material placed on record, the rival contentions now fall for determination by this Court.

13. At the outset, it is not in dispute that the original proceedings were initiated under Section 135 of the Maharashtra Land Revenue Code, 1966, which empowers the competent revenue authority to carry out survey and measurement of land for the limited and specific purpose of ascertaining the extent and boundaries of land in possession or occupation of a person. The scope of jurisdiction under the said provision is confined to physical verification and demarcation of land and does not contemplate adjudication of title or civil rights inter se private parties. It is a settled principle of law that while undertaking such measurement, the revenue authority is under an obligation to issue notice to all adjoining landholders to ensure that the measurement is conducted transparently and without infringing upon the lawful rights of any third party. In the facts of the present case, the grievance raised by respondent No.5 essentially appears to be that the measurement and consequential correction carried out by the revenue authorities amounted to encroachment upon the land allegedly owned by respondent No.5.

14. However, upon careful examination of the impugned order passed by the revisional authority, it emerges that the entire adjudication proceeds on the basis of an erroneous presumption that there existed only one parcel of land described as ‘river and nallah’, which was transferred in favour of the petitioners. This approach appears to have completely overlooked the material on record, including the existence of two separate conveyances, both dated 10th October 1936, conferring title upon the petitioners over two distinct parcels of land described as 'river and nallah'. The revisional authority has failed to appreciate that the conveyances relate to separate areas, having independent descriptions, and that the rights of the petitioners emanate from both such instruments.

15. The contention raised on behalf of respondent No.5 that there exists only one conveyance dated 10th October 1936, is found to be factually incorrect and contrary to the documentary evidence on record. The petitioners have placed on record two conveyance deeds — the first bearing Registration No.95 of 1936 and the second bearing Registration No.96 of 1936. A distinguishing feature between the two conveyances is also the source of title: the first conveyance emanates from proceedings under the Land Acquisition Act, 1894, whereas the second pertains to transfer of government land. The areas covered under both conveyances are also distinct, as can be discerned from the property descriptions therein. The second conveyance describes the area of 'rivers and nallahs' as 41 acres and 37 gunthas (at Serial No.30), while the first conveyance records the area as 43 acres and 27 gunthas.

16. In view of the above, the conclusion drawn by the revisional authority that only one area comprising river and nallah was conveyed in favour of the petitioners is demonstrably incorrect and contrary to the material on record. It is well settled that when a statutory authority proceeds on an erroneous assumption of fact, the resulting decision is liable to be interfered with in judicial review.

17. Further, what was essential for the appellate or revisional authority under the Act was to undertake a specific adjudication as to whether and in what manner the correction of revenue records pursuant to the measurement carried out under Section 135 had the effect of infringing the existing rights of respondent No.5. In absence of any specific finding to that effect, the revisional jurisdiction could not have been validly exercised in favour of respondent No.5.

18. In the present case, neither the revisional authority nor the appellate authority has recorded a conclusive finding that the survey and demarcation carried out by the competent authority had the effect of trespassing into or encroaching upon the immovable property owned by respondent No.5. In absence of such foundational finding, the grant of relief in favour of respondent No.5 by way of setting aside the corrected measurement is not legally sustainable.

19. In the present case, not only is the order passed by the revisional authority based on a misreading of the factual matrix, but it also suffers from non-consideration of relevant documents which go to the root of the dispute. The revisional authority has failed to undertake a proper adjudication of the relevant facts and has proceeded to record factually incorrect findings regarding the extent and identity of the property in question. Therefore, the impugned order, being vitiated by error apparent on the face of the record and lacking jurisdictional foundation, cannot be sustained in law and deserves to be quashed and set aside.

20. However, this Court is not unmindful of the limited scope of writ jurisdiction and the fact that the present proceedings do not adjudicate upon title or boundary disputes in a conclusive manner. Therefore, it shall be open to respondent No.5 to initiate appropriate proceedings, if so advised, for redressal of his grievance either by applying for a fresh measurement under the prescribed procedure, or by instituting a civil suit before the competent court of law. Needless to clarify, any such proceedings, if initiated, shall be decided strictly on their own merits and uninfluenced by any of the observations made in the present judgment, which are confined only to the legality and correctness of the impugned revisional order.

21. Rule is made absolute in terms of prayer clause (a).

22. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)