

Ajay

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

WRIT PETITION NO.6240 OF 2025

Kailash Rajaram Walekar

.. Petitioner

Versus

State of Maharashtra and Ors.

.. Respondents

.....

- Mr. Kunal R. Maskar, Advocates for Petitioner.
- Mr. P. V. Nelson Rajan, AGP for Respondent Nos.1 and 2
- Mr. S. C. Wakankar, Advocate for Respondent Nos.3.1 to 4.4, 5.1 to 5.3, 6.1 to 6.6 and 7.1 to 7.4.
- None for Respondent Nos.8 to 9.

.....

CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 10, 2025.

P.C.:

1. Heard Mr. Maskar, learned Advocates for Petitioner; Mr. Nelson Rajan, AGP for Respondent Nos.1 and 2 and Mr. Wakankar, learned Advocate for Respondent Nos.3.1 to 4.4, 5.1 to 5.3, 6.1 to 6.6 and 7.1 to 7.4.

2. Mr. Maskar draws my attention in the order dated 12.06.2025 (Coram: Manish Pitale, J.) and persuades the Court to hear the present Petition. Preliminary objection is raised by Mr. Wakankar on maintainability of the Petition to challenge the impugned order passed by the Tahsildar in RTS proceedings altering Mutation Entries.

3. Petitioner is aggrieved by the said impugned order. However certain facts noted in the order dated 12.06.2025 are incorrect on the

face of record. But without indulging in them, it is observed that the principal ground of contention advanced by Mr. Maskar is contained in paragraph No.6(o). It is his contention that within a span of one month, Tahsildar has passed two contradictory decisions in respect of the same cause of action. Needless to state that the second decision was taken on the specific Application made by the private Respondents represented by Mr. Wakankar.

4. Mr. Maskar would submit that the first decision was also taken on the Application for altering Mutation Entries on behalf of the private Respondents. He would submit that both the orders are detrimental and prejudicial to the rights of the Petitioner in the subject land. It is seen that despite the fact that Petitioner was heard on both occasions the impugned orders were passed.

5. Be that as it may, challenge to the impugned order under Section 257 read with Schedule E under the Maharashtra Land Revenue Code, 1966 (for short '**MLRC**') lies to the appropriate statutory competent first Appellate Authority namely the Sub-Divisional Officer, Thane. Instead of filing the statutory Appeal, the present Petition is invoking extraordinary jurisdiction of this Court. This Court cannot become a fact finding Court and decide disputed questions of facts in the first instance and at the threshold. Therefore, Petitioner is directed to file an appropriate statutory Appeal

against the impugned order and also bring to the notice of Appellate Authority the previous order. If any such statutory Appeal is filed within a period of two weeks from today by the Petitioner, the same shall be heard, dealt with and disposed of by the learned First Appellate Authority namely the Sub-Divisional Officer, Thane as expeditiously as possible and in any event preferably within a period of four weeks from the date of filing the said Appeal.

6. Needless to state that while disposing of the Appeal, First Appellate Authority namely the Sub-Divisional Officer, Thane shall hear not only Petitioner but also Respondents and shall pass a speaking order. Any further avenue to challenge the order passed First Appellate Authority namely the Sub-Divisional Officer, Thane shall be open to the respective parties, strictly in accordance with law.

7. This Court has not given its imprimatur on merits of the matter and while deciding the said Appeal, the First Appellate Authority namely the Sub-Divisional Officer, Thane shall not be influenced by any of the facts stated herein. The Appeal shall be decided strictly on merits and in accordance with law.

8. All contentions of both the parties are expressly kept open without disturbing the impugned order which is to be challenged in Appeal.

9. If any pleadings are required to be completed by the parties, in the Appeal, it is directed that the same shall be completed within a period of one week from filing of the Appeal and service on the Respondents.

10. Mr. Nelson points out that parties be put to notice that they shall not take any unnecessary adjournments but the situation so demands and if any exigency arises, the learned first Appellate Authority namely the Sub-Divisional Officer, Thane shall grant the adjournment strictly in accordance with law.

11. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

Ajay

AJAY
TRAMBAK
UGALMUGALE

Digitally signed
by AJAY
TRAMBAK
UGALMUGALE
Date: 2025.11.10
18:26:02 +0530