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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7204 OF 2025

Dr. Rameshchandra Maganlal Thakkar Since
Deceased Through Legal Heirs .. Petitioners

Versus

The State of Maharashtra & Ors. .. Respondents

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- Ms. Seema Sarnaik, Senior Advocate a/w Ms. Sangeeta Salvi, Ms. Pooja Chettiar and Mr. Sushil Kamble, Advocates for Petitioners.
- Ms. Kavita N. Solunke, AGP for Respondent Nos. 1,8 and 9 State.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 06, 2025.

P.C.:

1. Heard Ms. Sarnaik, learned Senior Advocate for Petitioners and Ms. Solunke, learned AGP for Respondent Nos.1, 8 and 9.

2. Petitioner is challenging order dated 04.02.2025 passed by Additional Commissioner Konkan Division, Mumbai in Revision Application No.597 of 2023. Order dated 04.02.2025 is appended at Exhibit - 'A' at page No.39. Parties shall be referred to by their positions in the present Petition.

3. Briefly stated, one Dr. Rameshchandra Maganlal Thakkar (for short “**Original Petitioner**”) purchased 1/3rd portion of land in Survey No. 38, Hissa No.3 village Chinchvan, Taluka Panvel, District Alibag - Raigad admeasuring 6H-1R-O from Respondent Nos.2 to 7 by registered Conveyance Deed dated 16.12.1969 and name of Original

Petitioner was recorded in Land Revenue record by Mutation Entry No. 208. Vide another Deed of Conveyance dated 09.01.1970, thereafter, Original Petitioner purchased remaining 2/3rd portion of Survey No.38, Hissa No.3 village Chinchvan, Taluka Panvel, District Alibag - Raigad admeasuring 6H-1R-O from one Mr. Gokulchand Gangaram Rajput and name of Original Petitioner was mutated by Mutation Entry No. 226.

3.1. State Government enacted Maharashtra Private Forests (Acquisition) Act, 1975 and on 30.08.1975 acquired Survey No.38, Hissa No.3, Survey No.38 Hissa No.2 and Survey No.46 Hissa No.0, out of village Chinchvan, Taluka Panvel, District Alibag – Raigad (for short “said lands”).

3.2. Original Petitioner filed Writ Petition No.2563 of 1992 in this Court, seeking return of said lands as they did not form part of private forests and did not vest in the State Government. Writ Petition No.2563 of 1992 was allowed by order dated 18.11.1991 passed by this Court directing return of said lands to Original Petitioner and this was recorded in Mutation Entry No.340. However only Survey No.38 Hissa No.2 and Survey No.46 Hissa No.0, of village Chinchvan, Taluka Panvel, District Alibag – Raigad were returned to Original Petitioner.

3.3. On 07.10.2019, Original Petitioner obtained records of rights in respect of said lands of Revenue Village Chichvan. Original

Petitioner was aghast to find out that subsequent Mutation Entry No. 658 dated 07.08.2001 recorded names of Respondent Nos. 2 to 7 as owners of the said land. On 23.10.2019, Original Petitioner filed RTS Appeal No. 234 of 2022 under Section 247 of the Maharashtra Land Revenue Code, 1966 (for short “**MLRC**”) before Sub- Divisional Officer, Panvel Division, Panvel for cancellation of Mutation Entry No.658 dated 07.08.2001 to delete the names of Respondent Nos. 2 to 7 and add name of Original Petitioner as rightful owner of the said land.

3.4. On 16.05.2020, pending decision in the RTS Appeal, Original Petitioner expired and his legal heirs i.e. present Petitioners filed application to implead themselves as Appellants which was allowed by order dated 26.04.2022. On 27.07.2022, Sub-Divisional Officer Panvel dismissed RTS Appeal. Being aggrieved Petitioners filed RTS Appeal No. 283 of 2022 before Additional Collector, Raigad which was dismissed by order dated 11.08.2023 hence On 02.11.2023, Petitioner filed RTS Appeal No. 597 of 2023 before Additional Commissioner, Konkan Division, Mumbai which was also dismissed by order dated 04.02.2025. Hence, the present Petition.

4. Ms. Sarnaik, learned Senior Advocate for Petitioners would submit that Original Petitioner purchased the said lands as agricultural lands vide two separate Conveyance Deeds duly registered with the Sub-Registrar of Assurances Panvel which was recorded in Mutation

Entry Nos. 208 and 268 dated 17.04.1970 and 16.08.1970 respectively hence Original Petitioner was the absolute owner of right, share, title and interest in the said lands. She would submit that Original Petitioner was not an agriculturalist however he sought permission from the statutory authorities under Section 63 of the Tenancy Act before purchasing the said lands. She would submit that Original Petitioner grew various fruit trees and set up irrigation network on the said lands. She would submit that State Government acquired said land under Maharashtra Private Forest Act, 1975 which led to Original Petitioner filing Writ Petition No.2563 of 1982 wherein this Court passed order dated 18.11.1991 and held that said lands were not Private Forest land since Original Petitioner entered into valid declaration under Section 65 of the Tenancy Act. Petition was allowed and this Court directed State Government to return the said lands to Original Petitioner. She would submit that above facts are recorded in Mutation Entry No. 340 copy of which is appended at Exhibit 'J' to page No. 70 of the Petition.

4.1. She would submit that Mutation Entry No. 658 showing the names of Respondent No. 2 to 7 as owners of Survey No. 38 Hissa No. 3 is illegal, perverse and deserves to be cancelled. She would submit that filing of RTS Appeal before the Respondent No. 8 could not be barred by limitation as no mandatory notice of Mutation Entry change was served upon Original Petitioner hence Mutation Entry in itself is

illegal and passed without hearing or reply violating the rules of natural justice. She would submit that the first time Original Petitioner came to know of Mutation Entry No. 658, he took prompt steps and filed the RTS Appeal.

4.2. She would submit that orders dated 27.07.2022, 11.08.2023 and 04.02.2025 are unreasonable, untenable in law, passed without application of mind and deserve to be dismissed. She would submit that Sub-divisional Officer Panvel Division dismissed Appeal without considering merits and instead only considered technical defects in Appeal. She would submit that Appeal was dismissed merely on the ground that there was no mention of the provision number under which the Appeal was filed, that Appellant did not sign the Appeal memo and no affidavit in support was filed along with appeal memo. She would submit that being aggrieved, present Petitioners filed appeal before the Additional Collector, Raigad at Alibag however the same was dismissed after reliance was placed on Section 232(2) of MLRC and held that Petitioners did not bring on record legal heirs of present Respondent Nos. 2,3 and 7 and Appeal memorandum was not served upon Respondent Nos. 4,5 and 6 hence arriving at an incorrect observation by stating that Petitioners were not interested in agitating their claims. She would submit that Petitioners made their best efforts to ascertain legal heirs of Respondents and bring them on record. She would submit that Petitioners published newspaper

advertisement in a newspaper of wide circulation within the area in the hope of eliciting a response but to no avail.

4.3. She would submit Petitioners filed revision application before the Additional Collector Konkan which was also dismissed observing that Petitioners did not take efforts to ascertain addresses of Respondents neither was any explanation given as to how names of Respondent Nos. 2 - 7 came to be mutated hence an incomplete application was filed however Additional Collector made no observations on legality of Mutation entry hence order was passed with haste and bereft of cogent reasons.

4.4. She would submit that the lower forums failed to consider names of Respondent Nos. 2 to 7 were added in record of rights through unfair and fraudulent means. She would submit that Petitioners apprehend that this fraud was perpetrated by Respondent No. 8 which explains dismissal of application merely on technical grounds rather than on law points especially since subject matter jurisdiction in filing RTS Appeal was elucidated in paragraph No. 6 of the Appeal memorandum. She would submit that Additional Sub-Divisional Officer made a grave error in observing that Petitioners did not mention the relevant provision under which RTS Appeal was filed as Petitioners clearly mentioned RTS Appeal was filed under Section 247 MLRC. She would submit that Additional Collector Raigad did not

consider the fact that Sub Divisional Officer did not pass any order to serve amended Appeal memorandum upon Respondent Nos. 2 to 7 hence in absence of such order the same cannot be served.

4.5. She would submit that on 17.02.2025, Petitioners even filed an application to Respondent No. 8 to provide records with respect to Mutation Entry No. 658 in the hope of ascertaining address of Respondents however on 04.03.2025, Respondent No. 8 replied to the application stating that no records with respect to Mutation Entry No. 658 were available.

4.6. She would submit that in view of the above facts, impugned order as well as orders passed by the lower forums are bogus, illegal, perverse, passed without application of mind and consideration of submissions or legal points, in violation of principles of natural justice and hence deserve to be set aside She would submit that Mutation entry No. 658 deserves to be cancelled and the names of Respondent Nos. 2 to 7 are to be deleted and names of Petitioners to be added.

5. *PER CONTRA*, Ms. Solunke, learned AGP for Respondent Nos.1, 8 and 9 has opposed the Writ Petition contending that the impugned order dated 04.02.2025 and orders dated 11.08.2023 and 27.07.2022 are legal, tenable and deserve to be upheld. She would submit that at the outset, the objections raised by the lower forums were preliminary in nature and the onus lay on Petitioners to remove

the objections before proceeding with hearing. She would submit that since Petitioners did not remove office objections, Respondent No. 8 was left with no choice but to dismiss the RTS Appeal on technical grounds without discussing the law points.

5.1. She would submit that Respondent No. 8 observed that the Appeal memorandum was not signed by the party and affidavit in support of Appeal memorandum was not filed by Original Petitioner and since no explanation was given by Original Petitioner for these defects and Respondent No. 8 was apprehensive as to the authenticity of the Appeal and dismissed the same. She would submit that it is established practice that certified copies of Government documents have to be filed along with any pleading before judicial and quasi-judicial authorities and adherence to these practices are necessary for proper determination of the dispute. She would submit that since certified copies of the Mutation Entry no. 658 was not filed along with the appeal, Respondent No.8 was inconvenienced and could not deliver effective orders on law points hence he dismissed RTS Appeal. She would submit that in the present case, the alleged fraud / error of Mutation Entry No. 658 took place on 05.07.2001 yet Original Petitioner filed RTS Appeal only in 2019 hence there was a delay of 18 years without believable explanation or reasons for the same and since Original Petitioner sought no prayer for condonation of this delay, the RTS Appeal deserved to be dismissed summarily.

5.2. She would submit that Additional Collector, Raigad correctly upheld the order passed by Respondent No. 8 and hence his order deserves to be upheld. She would submit that Respondents did not appear in the matter, Respondent Nos. 2,3 and 7 had expired and present Petitioners made no efforts to ascertain the legal heirs and bring them on record. She would submit that Petitioners mere statement that they were unable to trace Respondent Nos. 2 to 7 despite publication of notice in local newspaper does not show that sufficient efforts were taken to ascertain addresses of Respondent Nos. 2 to 7 and bring them on record hence due to non appearance of both Petitioners and Respondents, RTS Appeal was dismissed. She would submit that Additional Collector Konkan, recapitulated all defects in filing of Appeal memorandums before the lower authorities and passed a cogent order. She would submit that since Original Petitioner and present Petitioners did not remove primary objections and defects despite sufficient time afforded to them, the question of discussion on law points does not arise hence impugned order and orders passed by the lower forums are correct, tenable in law and deserve to be upheld.

6. I have heard Ms. Sarnaik learned Senior Advocate for Petitioners and Ms. Solunke, learned AGP for Respondent Nos. 1,8 and 9 and with their able assistance perused the record of the case. Submissions made by learned Advocates at the bar have received due consideration of the Court.

7. At the outset it is seen that Respondent Nos. 2 to 7 have not appeared before this Court nor have they appeared before the lower forums despite efforts made by Petitioners. Admittedly, it is borne out of the record and even according to Respondent Nos. 1, 8 and 9 that rounds of litigation were agitated in the lower forums which led to dismissal of RTS Appeals and Revision Application without any discussion on points of law. It is seen that the lower forums dismissed Original Petitioner and Petitioner's claims without alluding to any legal defect in their claims and instead decided the same without due perusal of documentary evidence on record.

8. It is seen that Original Petitioner, despite not being an agriculturist owned the said lands by virtue of permission obtained from Collector and executed declaration to that effect. It is seen that State Government enacted MPFA in 1975 and automatically acquired the said lands however the same was returned to Original Petitioner by virtue of order dated 18.11.1991 passed by this Court which is at Exhibit 'K' which is appended at page No. 72 of Petition. It is seen that on the basis of these facts, Mutation Entry No.340 came to be added in the records of Respondent No. 8 however this mutation entry is only with respect to Survey No.38 Hissa No.2 and Survey No. 46 Hissa No.0, village Chinchvan, Taluka Panvel, District Alibag – Raigad.

9. It is seen that despite the recording of these facts, a separate Mutation Entry bearing number 658 came to be recorded which stated that the names of Respondent No. 2 to 7 are owners of Survey No. 38, Hissa No.3 village Chinchvan, Taluka Panvel, District Alibag – Raigad. It is seen that Mutation Entry No. 658 is at Exhibit ‘D’ appended at page No. 46 of Petition and it reveals that one Mr. Purushottam Hari Bapye, Respondent No. 2 in the present Petition, is the owner of land situate at Survey No. 38 Hissa No. 3, compensation for damages to land by Forest Department was filed and no details of compensation were made available. It is also seen that land would be re-registered once compensation is made available. It is seen that this entry is registered on 05.07.2001. It is seen that there is no legal reason or any registered document mentioned regarding mutation of this Mutation Entry to show how the name of Original Petitioner came to be deleted and name of Respondent No. 2 appeared as owner of the said lands. It is seen that the Mutation Entry does not lay down the basis as to how Respondent No. 2 derived his ownership of Survey No, 38 Hissa No. 3 but directly declares him as the owner thereof. It is seen that such Mutation Entry is patently wrong and apparent on the face of record and the same clearly disentitles Original Petitioner and present Petitioners of Survey No, 38 Hissa No. 3 with no legal basis or standing.

10. It is apparent on the face of record that since Mutation Entry No. 340 correctly recorded the facts in respect of Survey No.38 Hissa No.2 and Survey No. 46 Hissa No.0, Original Petitioner was under the impression that in good faith and in performance of duty, Respondent No. 8 would correctly record the facts with respect to Survey No. 38 Hissa No. 3 but to no avail. It is seen that on 07.10.2019 Original Petitioner obtained records of rights when he discovered the error and immediately took steps to correct the same as he filed RTS Appeal No. 234 of 2022, copy of which is at Exhibit 'L' appended at page No. 79 of the Petition, before Respondent No. 8 within less than 20 days on 23.10.2019 therefore the same was well within limitation. It is seen that RTS Appeal No. 234 of 2022 contained sufficient reasons to show cause of action as well as explanation for delay.

11. It is seen that RTS Appeal No. 234 of 2022 contained signature of Original Petitioner and his advocates on record hence the submission of Ms. Solunke and observation of Respondent No. 8 that Appeal memorandum was not signed by Original Petitioner cannot be accepted. It is seen that order dated 27.07.2022 passed by Respondent No. 8 does not explain nor does it lay down any reason as to how the name of Original Petitioner was not recorded as owner of Survey No. 38 Hissa No. 3 despite an order from this Court being in existence and Mutation Entry No. 340 being recorded in pursuance of the same. I am afraid I cannot accept the contention of Ms. Solunke that the order

passed by Respondent No.8 is correct and tenable in law as when a property is purchased vide a duly registered document and the same is recorded by a Mutation Entry, then the new holder / owner's name cannot be deleted without any subsequent registered document to that effect and without hearing him. The Original Petitioner became the absolute owner of Survey No. 38 Hissa No. 3 by way of two duly registered Conveyance Deeds, his ownership was recorded by two previous Mutation Entries and hence by no stretch of imagination can his name be deleted in absence of a registered document or order from a judicial authority on the same. Such action of Respondent No. 8 casts serious doubts and questions on the working of Respondent No 8.

12. It is seen that on 17.02.2025, Petitioners made a final attempt to ascertain the whereabouts of Respondent Nos. 2 to 7 by filing an application before Respondent No. 8 calling for records of Mutation Entry No. 658. Such application would also serve the purpose of understanding the motive and reasons as to why Respondent No.8 recorded Mutation Entry no. 658, however Respondent No. 8 vide reply dated 04.03.2025 stated that no records were to be found with respect to Mutation Entry No. 658. Hence Petitioners have taken sufficient steps to ascertain whereabouts of Respondent Nos. 2 to 7 and despite best efforts they were unable to locate them.

13. It is seen that Additional Collector Raigad and Additional

Collector Konkan have also passed orders which do not discuss law points instead dismissed them RTS Appeal and Revision Application on technical grounds. The lower authorities ought to have considered that Petitioners have taken sufficient steps to locate Respondent Nos 2 to 7 even publishing notice in local newspaper in anticipation to receive some response however to no such luck. It is seen that findings in impugned order dated 04.02.2025, Order dated 11.08.2023 and order dated 27.07.2022 passed by the lower authorities may have mentioned alleged technical defects with the Appeal memorandums however discussion and observation of legal points if a case had been made out by Original Petitioner and Petitioners ought to have been mentioned while passing of orders. It is trite law that all orders passed by judicial and quasi-judicial authorities must contain cogent reasons before arriving at their final decision however there is not even a whisper as to the maintainability of the claims agitated before the lower forums neither is there any discussion on law points on whether such claim would survive if alleged technical defects were removed.

14. Admittedly, Original Petitioner executed Conveyance Deeds which were duly registered with the Sub-Registrar of Assurances, Panvel with respect of Survey No. 38 Hissa No. 3. Admittedly, this transaction was recorded in Mutation Entries and Original Petitioner came to be the owner in respect of land situate and Survey No. 38 Hissa No. 3. Admittedly, Order dated 18.11.1991 passed by this Court

observed that Survey No. 38 Hissa No.3 is private forest and directed State Government to return Survey No.38/2, 41/3, 44/0 and 46/0 to Original Petitioner. There is no subsequent registered document to disentitle him from ownership and possession of Survey No. 38 Hissa No. 3 and post order dated 18.11.1991 passed by this Court, Respondent No. 8 ought to have recorded the name of Original Petitioner as owner of Survey No. 38 Hissa No. 3. He did not do so.

15. In the circumstances, nothing can be held against Petitioners in the present case on the basis of the above facts. Thus, impugned order dated 04.02.2025 and orders dated 27.07.2022 passed by Respondent No. 8 and order dated 11.08.2023 passed by Additional Collector Raigad suffer from serious infirmities, bordering on complete arbitrariness, illegality, and are therefore not sustainable in law.

16. In view of my above observations and findings, impugned order dated 04.02.2025 is quashed and set aside as also order dated 27.07.2022 passed by Respondent No. 8 and order dated 11.08.2023 passed by Additional Collector Raigad are quashed and set aside. Resultantly the Petition succeeds.

17. Writ Petition stands allowed in terms of prayer clauses (e), (f), (g), (h) and (i).

18. Writ Petition is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]