IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8442 OF 2025

Shivaji Dashrath Dongre (deceased)
through legal heirs Sharda Shivaji Dongre and Ors. … Petitioners
versus
Nivrutti Baban Dongre (deceased)
through Legal heirs Rajesh Nivrutti Dongre
and Ors. … Respondents

Mr. Avinash Fatangare with Ms. Archana Shelar, for Petitioners.
Mr. Uday B. Nighot for Respondent Nos.1A to 1C.
Ms. T.J.Kapre, AGP for Respondent Nos.5 to 9.

CORAM: N.J.JAMADAR, J.

DATE : 11 JULY 2025

ORAL ORDER :

1. Heard the learned Counsel for the parties.

2. The challenge in this Petition is to a judgment and order dated 14 October 2024 passed by the Revenue Minister in RTS Revision No.3423/800/Pra.Kra.17/J-5, whereby the Revenue Minister was persuaded to partly allow the Revision Application and set aside the orders passed by the Sub-Divisional Officer, Additional Collector and the Additional Divisional Commissioner, Pune and cancel Mutation Entries Nos.20364 and 1408 in respect of the subject premises.

3. In pursuance of the scheme settled under the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947, Gat Nos.184/1 +

2A/1, 187/1, 187/2, 188 and 189/2 were consolidated into Gat No.622. The names of the Petitioners came to be mutated to the record of rights vide mutation entry No.20364 on 21 December 1983, before the settlement of the Scheme, purportedly on the basis of statement of deceased Respondent No.1.

4. It appears that the Respondent No.1 instituted proceedings before the revenue authority seeking correction in the record of rights. Eventually, by the impugned order, the Revenue Minister held that the authorities under the Maharashtra Land Revenue Code, 1966 had no jurisdiction to correct the entries made pursuant to the scheme settled under the said Act, 1947. If the Respondent No.1 – Revisional Applicant before the Revenue Minister was aggrieved by the prayers in the Consolidation Scheme, he was required to approach the authorities under the said Act, 1947. Yet, by the impugned order the Revenue Minister set aside the orders passed by the Sub-Divisional Officer, Additional Collector and the Additional Divisional Commissioner on the ground that the same were passed without jurisdiction and cancelled Mutation Entry Nos.20364 and 1408. Respondent No.1 was granted liberty to approach the Dy. Director, Land Records and seek corrections in the Scheme settled under the said Act, 1947.

5. Pursuant to the aforesaid order, Respondent Nos.1A and 1B filed an application before the Dy. Director, Land Records. It appears that the notices

were issued to the Petitioners, and by an order dated 25 May 2025, the Dy. Superintendent of Land Records, rejected the objections on behalf of the Petitioners and corrected the scheme.

6. The principal grievance of the Petitioners is that the Revenue Minister despite having recorded a categorical finding that the authorities under the Maharashtra Land Revenue Code had no jurisdiction to correct the entries made pursuant to the Scheme settled under the said Act, 1947, could not have set aside the order passed by the authorities, and, directed cancellation of the mutation entries. Moreover, on the strength of the order passed by the Minister, the Dy. Superintendent of Land Records straightaway corrected the said entries without holding any inquiry.

7. The submission on behalf of the Petitioners, prima facie, carries substance. From the perusal of the order passed by the Dy. Superintendent of Land Records, it appears that the said order has been passed solely on the basis of the order passed by the Revenue Minister in RTS No.3423/800/Pra.Kra 17/J-5. Under Section 32 of the Act, 1947, the Settlement Commissioner has power to vary the scheme on the ground of error, irregularity, infirmity, after making an inquiry as envisaged by sub-section (3) of Section 32.

8. In the case at hand, the Dy. Superintendent of Land Records has not conducted the requisite inquiry, as envisaged by Section 32(3) of the Act,

1947, and straightaway varied the scheme on the basis of the order passed by the Revenue Minister. It was incumbent upon the Dy. Superintendent of Land Records to pose unto himself the questions as regards the legality and propriety of the corrections / modifications of the Scheme after lapse of 30 years and its justifiability. An effective opportunity of hearing ought to have been granted to the Petitioners and a reasoned order ought to have been passed. On this count alone, the Petition deserves to be allowed and the matter remitted back to the Dy. Superintendent of Land Records.

9. Hence, the following order :

ORDER

(i) The Writ Petition stands allowed.

(ii) The order dated 5 May 2025 passed by the Dy. Superintendent of Land Records stands quashed and set aside.

(iii) The Application filed by Respondent Nos.1A and 1B for modification in the Scheme stands remitted back to the Deputy Superintendent of Land Records for afresh determination after providing an effective opportunity of hearing to the concerned parties, as expeditiously as possible, and, preferably, within a period of four months from the date of communication of this order.

(iv) So far as mutation entries cancelled by the order of the Revenue Minister, the Respondents shall not act on the said order of the Revenue

Minister and create any third party rights on the basis of the impugned order passed by the Revenue Minister till the Dy. Superintendent of Land Records decides the application preferred by Respondent Nos.1A and 1B for the modification in the Scheme.

(N.J.JAMADAR, J.)

Signed by: S.S.Phadke
Designation: PS To Honourable Judge
Date: 14/07/2025 20:58:32