

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12537 OF 2025

Shri. Suresh Yashwant Phadke & Anr.

...Petitioners

Vs

State of Maharashtra & Ors.

...Respondents

Mr. Surel Shah, Senior Advocate with Ms. Asmita Sarangdhar, Mr. Digvijay Sarangdhar and Mr. Yash Dewal for Petitioners.

Mr. P. P. Kakade, Add. G.P. with Mr. M. P. Thakur, AGP for State/Respondent Nos.1 to 3.

Mr. D. S. Mhaispurkar with Mr. Hrishikesh Pavaskar for Respondent Nos.4 to 8.

CORAM: G. S. KULKARNI &

AARTI SATHE, JJ.

DATE: 01 OCTOBER 2025.

P.C.

1. Additional affidavit in regard to the subsequent development in regard to the mutation entry being carried out is taken on record.

2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:-

a) That this Hon'ble Court be pleased to issue a writ of certiorari and / or any other writ, order in the nature of certiorari and thereby call for record and proceedings of Impugned Order dated 10th July 2025 passed in Case No. 19 of 2025 under section 155 filed before the Respondent No.2, Ld. Tehsildar Kalyan, while acting on complaint dated 06/05/2025 and after examining the same be pleased to quash and set aside the impugned order dated 10th July 2025 passed by Ld. Tehsildar Kalyan.

b) That this Hon'ble Court be pleased to issue a writ of mandamus and / or any other writ, order in the nature of mandamus and thereby direct the Respondent No. 2 Ld. Tehsildar Kalyan and Respondent No.3 Talathi, Village Tisgaon to restore the revenue records and names of the Petitioners and other co-owners onto the 7/12 extracts of the subject lands bearing Survey No. 26, 27/A, 27/B, 69/A Part, 69/B, 90/A, 90/B, 95/Part, Tisgaon, Kalyan, Thane.

c) That this Hon'ble Court be pleased to stay the effect, implementation, execution and operation of the impugned order dated

10/07/2025 in respect of subject lands bearing Survey No. 26, 27/A, 27/B, 69/A Part, 69/B, 90/A, 90/B, 95/Part, Tisagaon, Kalyan, Thane.”

3. The impugned order having passed by the Tahsildar, the petitioners have a remedy of filing a statutory appeal under the provisions of the Maharashtra Land Revenue Code, 1966.
4. The contention of the petitioners is to the effect that the Tahsildar has no jurisdiction to make any observations in regard to the title of the property in question and more particularly when the suit is pending.
5. Considering the facts of the case and also a remedy as available to file a statutory appeal, we permit the petitioners to withdraw this petition with liberty to the petitioners to file a statutory appeal.
6. Let such appeal be filed within 15 days from today. If the same is filed, it be considered and adjudicated in accordance with law by the appellate authority without an objection to the limitation, for the reason that the petitioners were bonafide pursuing the present proceedings. Copy of the appeal to be filed, be served on the advocate for the private respondents.
7. Mr. Mhaispurkar, learned counsel for the private respondents (respondent nos.4 to 8), on instructions of his clients who are present in the Court, makes a statement that the mutation entries which are made in pursuance of the impugned order dated 10 July 2025 passed by the Tahsildar shall not be acted upon for a period of 15 days. We accept his statement.

8. At this stage, Mr. Shah, learned senior counsel for the petitioners states that appeal would be filed within 7 days. If the same is filed, parties are directed to appear before the appellate authority on 13 October 2025 at 11.00 a.m.

9. Keeping open all contentions of the parties, the petition stands disposed of.
No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)