



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.5482/2024

Pradeep s/o Dinkar Umbarkar and another Vs. Sudhakar s/o Trimbakrao
Umbarkar and others

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. V.A.Lohiya, Adv. h/f Mr. D.R.Khapre, Advocate for petitioners
Mr. S.S.Sohoni, Advocate for respondent no.1.
Mr.H.D.Futane, AGP for respondent nos.2 to 5.

CORAM : SACHIN S. DESHMUKH, J.
DATE : JULY 23, 2025.

1. Heard.
2. The challenge is raised to the order dated 28.03.2024 rendered by the Additional Commissioner, Amaravati Division, Amravati in Revision No.9/RTS-59/Lonar/2022. It is the specific contention of the petitioners that the revenue entry no.1826 was recorded by virtue of partition deed executed by respondent no.1 in favour of petitioner no.1 in the year 1988 and the subsequent share obtained in the aforesaid partition in favour of petitioner no.2 led to the effecting the mutation entry no.6898, are cancelled vide the impugned order. The said mutation entries were challenged by respondent no.1 after an unexplained delay of 31 years viz. in 2019 by way of an appeal which was accompanied with an application for condonation of delay, the same was allowed by respondent no.3. Being aggrieved by the aforesaid order, an appeal was preferred by petitioners which was dismissed by respondent no.4, against which revision preferred was also dismissed. The further submission is that the title of the petitioners has remained unchallenged for a considerable length of time and the same is not disputed.
3. Per contra, Mr. Sohoni, has justified the delay in taking out the proceedings before the Revenue Authorities and submitted that the delay which was occurred, as the respondent no.1 was serving at different places during the relevant period.

4. It is a matter of record that the parties are litigating in a civil suit and substantive civil suit is pending for partition and separate possession in Regular Civil Suit No.48/2021 presented by the petitioner no.1 wherein the order of injunction is operating against the respondent no.1. This position has been fairly accepted by Mr. Sohoni.

5. It is a matter of record that the respondent no.1 has also presented Regular Civil Suit No.50/2021 for declaration of ownership and possession.

6. In the aforesaid backdrop, since the parties are already before the competent Court of civil jurisdiction and the matter is seized with the Civil Court wherein order of injunction protecting possession of petitioner is in force. As such the delay in pursuing proceedings before the Revenue Authority raising an exception to the mutation entries, the said delay on the part of the respondent no.1 is completely ignored by the Revenue Authority. As such the order cancelling the mutation entry of the year 1988 after a gap of 30 years is not justified in any situation and same is not explained properly. Nevertheless, since the parties are before the Civil Court, who is seized with the matter and therefore, the Authority below has completely ignored this aspect while setting aside the mutation entries. These are standing in the name of petitioners.

7. In that view of the matter, the order under challenge is set aside and the mutation entries nos.1826 and 6898 are hereby restored. It is made clear that since the litigating parties are before the Civil Court who is seized with the matter, the rights of litigating parties to be determined and decided, depending upon the outcome of the pending suits presented by litigating sides.

8. The petitioners have filed an undertaking that they will not deal with the subject matter of the suit property in any manner by way of mortgage, sale and in any manner will not alienate suit property. The said undertaking is taken on record and marked as "X" for the purpose of identification.

9. With the aforesaid directions, the petition is disposed of. No costs.
10. It is made clear that all the contentions between the litigating parties are kept open. The trial Court shall not get influenced by the observations recorded herein above in any manner as the same is confined to the issue raised in the present petition.

(SACHIN S. DESHMUKH, J.)

Mukund Ambulkar