

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15953 OF 2024

Balaram Janya Jhate & Ors.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

.....

- Mr. C.K. Tripathi, Advocate for Petitioners
- Ms. Snehal S. Jadhav, AGP for State
- Mr. Milind Parab a/w Mr. Rajan Gawade i/by M/s. Milind Parab & Associates, Advocates for Respondent No. 9

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 24, 2026

P. C.:

1. Heard Mr. Tripathi, learned Advocate for Petitioners; Ms. Jadhav, learned AGP for State and its functionaries and Mr. Parab, learned Advocate for Respondent No. 9.

2. Grievance in the present Writ Petition is *prima facie* captured in the twin orders dated 03.02.2026 and 17.02.2026 which are reproduced below for immediate reference:-

"1. Heard Mr. Tripathi, learned Advocate for Petitioners and Ms. Jadhav, learned AGP for Respondent – State.

2. The grievance expressed by Petitioner is that long standing revenue entries namely Mutation Entry standing in the name of Petitioner has been erased and name of legal heirs of private Respondents arrayed as Respondent Nos.5 to 15 have been mutated in revenue record concerning the subject property.

3. Mr. Tripathi refers to and relies upon letter of allotment appended at page No.28 which is the contentious Mutation Entry which prima facie records that under Government Resolution dated 26.08.1969, the Forest

and Revenue Department of the Government is allotted to father of Petitioners the subject land which is reflected therein below.

4. *This is confirmed by the order passed by the Additional Commissioner which is appended at page No.63. This order has been upset by order passed by the State which is impugned in the present Petition.*

5. *Private Respondents have been issued notice as far back as on 26.02.2025 which is almost one year. One final opportunity is given to private Respondents to remain present. If they do not remain present, case of Petitioner shall be decided.*

6. *In the meanwhile, Government is directed look into case of Petitioner and accordingly apprise the Court by filing appropriate Affidavit which shall be filed within a period of two weeks from today.*

7. *Government shall confirm allotment of the subject land and inform the current status of the same. Grievance of the Petitioners is that subject land is getting acquired and in that view of the matter, the Government shall apprise the current position / status of acquisition, if any, of the subject land to the Court on Affidavit in order to enable the Court to pass appropriate orders. Copy of this order shall be served on the private Respondents by Advocate for Petitioners.*

8. *Stand over to 17th February, 2026 at 03:00 p.m.."*

"1. *Heard Mr. Tripathi, learned Advocate for Petitioners; Ms. Jadhav, learned AGP for Respondent No.1 – State of Maharashtra and Mr. Parab, learned Advocate for Respondent No.9.*

2. *Ms. Jadhav, learned AGP appears for Respondent – State. The order dated 03.02.2026 namely directions contained in paragraph Nos.6 and 7 thereof are not complied till today. She is unable to apprise the Court about status of acquisition, if any of the subject land pursuant to which mutation has been carried out or reason for carrying out mutation of the long standing Mutation Entry thereby mutating names of Petitioners standing in the revenue record. Reasons for the same are required to be apprised to Court failing which this Court will have no alternative than to allow the Petition.*

3. *It is prima facie seen that father of Petitioner – Janya Halya Jhate being a landless Adivasi was awarded and granted subject land in the year 1970 under Government Order dated 27.06.1970 which was duly recorded and certified by Mutation Entry Pherphar No.315 of 30.03.1971 and after complying with the due procedure duly certified on 02.12.1971.*

4. *There is reference to Civil suit proceedings in the impugned order which infact according to Petitioner is apparently incorrect altogether and does not pertain to the suit land.*

5. *Be that as it may, reason for mutating the long standing Mutation Entry is required to be apprised to the Court. If no reasons are forthcoming from the State, the impugned order will have to be set aside which shall be noted by the State. One final opportunity is given to the State to comply*

with the aforesaid directions contained in the previous order within a period of one week from today.

6. *Stand over to 24th February 2026. To be placed under the caption 'First on Board'."*

3. Compliance of the above orders have been effected by State and affidavit-in-reply dated 24.02.2026 is filed on behalf of Respondent Nos. 2 to 4. The issue which has been raised by Petitioners is *prima facie* sought to be answered by State in paragraph No. 5 of the affidavit-in-reply by merely stating that upon verification of the record, it was noticed that 7/12 extract of the year 1981-82 appears to have been manipulated with overwriting of the word "Mhase" having been inserted therein. The name of original owner of the land is "Janya Halya Jhate" who was allotted plot No. 23 of Village Nagale, Taluka Vasai being a landless Adivasi in the year 1970. His name stands admittedly confirmed in the revenue record vide certified mutation entry No. 315. He is now represented by his successor-in-title. Though it is stated in the affidavit-in-reply filed by State that the original allottee had committed breach of the terms of the mutation entry by agreeing to sell the allotted land, however nothing much beyond reference to Civil Suit filed by one of the persons therein has been stated in the affidavit. State has not invoked any action in accordance with law. In fact conjoint reading of the contents of paragraph Nos 5 to 8 of the affidavit filed on behalf of Respondent Nos. 2 to 4 does not inspire any confidence of the Court whatsoever.

4. *Lis* before the Court is that the name / mutation of the original owner / allottee of the land has been obliterated by virtue of certain actions on behalf of the State to which the Petitioners being successors-in-title been aggrieved have approached the *quasi-judicial* Authorities in RTS proceedings. Learned Additional Commissioner has passed order dated 04.09.2019 appended at page Nos. 63-66 of the Petition. Prima facie perusal of that order clearly shows that the request made by Petitioners has been accepted by the *quasi-judicial* Authority and reasoned grounds are stated for conducting the inquiry as to how the name of the original allottee came to be changed or substituted from "Zate / Jhate" to "Mhase". There is reference given to the revenue record as also पिकपाहणी उतारा wherein name of the original allottee has been stated as "Mhase" instead of "Zate / Jhate". It is also stated therein that from 1976 onwards the name of original allottee has been shown as holder in respect of said land. All details of allotment made to the original allottee have also been stated therein. If at all the State is aggrieved with violation of any of the 14 conditions as stated in the allotment order and the mutation entry dated 30.03.1971, then the State will be at liberty to take appropriate steps as available to them in law.

5. Insofar as the present Petition is concerned, order dated 04.09.2019 passed by Additional Commissioner (appended at page

Nos. 63-66 of Petition) which calls for an appropriate inquiry by the Tahsildar, Vasai in accordance with law and on merits of the matter by giving an opportunity to all concerned parties to be heard by the said Officer is a correct order passed to redress the grievance of the Petitioner. There is no reason as to why the said cogent reasoned order is set aside by the State by virtue of the impugned order when the facts in the present case are so glaring and have been duly supported by the affidavit-in-reply now filed on behalf of Respondent Nos. 2 to 4.

6. In view of the aforesaid observations and findings, impugned order dated 07.06.2024 stands quashed and set aside thereby upholding the order dated 04.09.2019 passed by Additional Commissioner, Konkan Division, Mumbai instituting inquiry in respect of the change of name and grievance agitated by the Petitioners. Order dated 04.09.2019 is directed to be implemented. Learned Tahsildar, Vasai is directed to complete the inquiry within a period of six months from today by ensuring that due process of law is followed by him. After the inquiry is completed appropriate steps to be taken, if any, for rectification of the name in accordance with law.

7. Copy of this order shall be placed before learned Tahsildar, Vasai by Advocate for Petitioner on 26.02.2026 at 11.00 a.m. This order

shall also be intimated to the learned Tahsildar by the AGP appearing in the matter.

8. Petition is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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2026.02.24
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