

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17123 OF 2024

Priya Prabhakar Rane

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

.....

- Mr. Akshay Shinde, Advocate for Petitioner
- Ms. Kavita N. Solunke, Addl. GP a/w S.L. Babar, AGP for Respondent No. 1 - State
- Mr. Bhanu Chopra a/w Mr. Jahan Ajay Chokshi & Mr. Adit Furia i/by M/s. KJAC & Associates, Advocates for Respondent No. 2

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 3, 2026

P. C.:

1. Heard Mr. Shinde, learned Advocate for Petitioner; Ms. Solunke, learned AGP for Respondent No. 1 - State and Mr. Chopra, learned Advocate for Respondent No. 2 i.e. private Respondent.

2. Mr. Shinde would draw my attention to the order dated 29.11.2024. I have perused the said order. As stated in paragraph No.3 of the said order, the order passed by the Revisional Authority i.e. Divisional Commission, Konkan Division is appended at Exh. G, page Nos. 48-52 of Petition. Said order is not challenged further by predecessor-in-title of private Respondent before me. In that view of the matter, no fresh cause of action can arise to the subject mutation entry in a fresh proceeding.

3. I have already expressed my mind to Mr. Chopra. On being specifically asked as to whether the predecessor-in-title of private Respondent has challenged the order dated 23.12.2019 as noted by Court in paragraph No. 3 of the previous order, he would fairly concede in the negative. In that view of the matter, he has persuaded the Court to allow him to take appropriate instructions.

4. It is *prima facie* seen that the subject matter of dispute in the present case emanates from mutation entry No. 552/1939 pursuant to which there were certain mortgage transactions between the parties and rights have flown from generations thereafter unto the present set of holders. Private Respondent before me is one such developer who has procured the rights of some of the parties thereto. Be that as it may, Mr. Chopra has also addressed the Court that over a period of time, private Respondent has undertaken massive development and constructed more than 69 buildings on the entire larger layout and present *lis* concerns and restricts only to few pockets of land therein. Be that as it may, he would also argue that when the Petitioners embarked upon the proceedings to disturb the mutation entries, Petitioner despite having knowledge of the fact that substantive rights were created in favour of private Respondent and private Respondent having developed the said land did not give notice to the private Respondent either.

5. I have heard both the learned Advocates and perused the record of the case. *Prima facie* I am of the clear opinion that the present issue raises substantive disputed questions of fact. That apart question posed by my learned Predecessor (Coram : Sharmila U. Deshmukh, J.) in paragraph No. 3 of the previous order stands clearly answered. In that view of the matter, this Court cannot be the Court of first instance to give its imprimatur on facts in summary proceedings. If at all the substantive rights of the Developer stand affected, the Developer can always approach the Civil Court on the strength of its entitlement and obtain appropriate injunctive relief considering the fact that Developer has been developing the larger layout on the entire land.

6. This Court refrains from expressing any imprimatur on merits or opinion with regard to the substantive rights either of the Petitioner or even the private Respondent i.e. Developer before me. In order to enable Mr. Chopra to take appropriate instructions and apprise the Court on the next adjourned date, matter is adjourned to **16th February, 2026** under the caption “**First on Board**”. In the meanwhile, ad-interim order, if any granted earlier, shall continue.

Amberkar

[MILIND N. JADHAV, J.]

RAVINDRA
MOHAN
AMBERKAR
Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2026.02.03
15:12:58
+0530