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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 18084 OF 2024

Rahul Arora and Ors. .. Petitioners

Versus

The State of Maharashtra and Ors. .. Respondents

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- Mr. Vineet Naik, Senior Advocate a/w. Mr. Sameer Pandit, Ms. Krina Gandhi, Mr. Chintan Pasad and Mr. Murlidhar Kumar, Advocates i/by Wadia Gandy & Co. for Petitioners.
- Mr. Ashutosh Kumbhakoni, Senior Advocate i/by Mr. Tukaram Shendge for Respondent No.3.
- Ms. Minal Chandnani, Advocate for Respondent Nos.4, 5, 6, 7, 9, 10 and 11.
- None appears for Respondent No.8
- Mr. V.R. Kasle, Advocate for Respondent No.12.
- Mr. Mani Thevar a/w. Ms. Shrutika Jawale, Advocates i/by Ganesh and Co. for Respondent Nos.13 to 26.
- Mr. A.R. Deolekar, AGP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 06, 2026.

P.C.:

1. Heard Mr. Naik, learned Senior Advocate for Petitioners; Mr. Kumbhakoni, learned Senior Advocate for Respondent No.3; Ms. Chandnani, learned Advocate for Respondent Nos.4, 5, 6, 7, 9, 10 and 11; Mr. Kasle, learned Advocate for Respondent No.12; Mr. Thevar, learned Advocate for Respondent Nos.13 to 26 and Mr. Deolekar, learned AGP for Respondent – State.

2. In the present case, Petitioners are challenging the order dated 11.11.2024 passed by the Additional Divisional Commissioner, Pune in Revision proceedings, by virtue of which three concurrent orders passed by the Statutory Officers in RTS proceedings namely order dated 02.04.2019 passed by the Tahsildar, order dated 19.12.2019 passed by the Sub-Divisional Officer (for short '**SDO**') and the order dated 04.08.2022 passed by the Additional Collector have been upset. The impugned order directs the Tahsildar, Mulshi to record the names of private Respondent Nos.3 to 12 in the Revenue Record in respect of the subject land which is the subject matter of litigation in the present Writ Petition.

3. The subject land is nomenclatured as Survey No.99 admeasuring 34 Hectare and 35 Ares located at Village Tathawade, Taluka Mulshi, District Pune. The impugned order is appended at page No.35 of the Writ Petition whereby orders passed by the Tahsildar, SDO and Additional Collector are appended at page Nos.339, 380 and 419 respectively.

4. Both the learned Senior Advocates appearing for the Petitioners and private Respondent Nos.3 to 12 have argued elaborately and taken me through the aforesaid orders in the RTS proceedings. Learned Senior Advocates have also been candid enough to apprise the Court about pendency of Special Civil Suit No.54 of

1998 (which is now re-numbered as Suit No.4 of 2026) pending before the Civil Court which has been filed by private Respondent Nos.3 to 12 being Plaintiffs therein. Therefore *prima facie* the issue of title and entitlement of the parties is admittedly subjudice before the Competent Civil Court. Though initially it was argued by the Petitioners that proceedings before the Additional Commissioner resulted in passing of the impugned order *ex-parte* without giving an opportunity of hearing to the Petitioners in breach of the principles of natural justice, in view of the parties apprising this Court about pendency of the Civil Suit proceedings as delineated herein above, I do not wish to enter into that controversy with regard to *ex-parte* revenue proceedings lest it will not been in the interest of the parties before me who have been litigating in the Civil Court since long. Rather I am of the opinion that it will further add to the ignominy of the parties before me which should be avoided by the Court in such facts and circumstances.

5. Mr. Naik, learned Senior Advocate appearing on behalf of the Petitioners and Mr. Kumbhakoni, learned Senior Advocate appearing on behalf of contesting answering Respondent No.3 have made their respective submissions. Equally, Mr. Thevar, learned Advocate appearing on behalf of private Respondent Nos.13 to 26 who are the predecessors-in-title of the Petitioners have adopted the submissions of Mr. Naik, whereas Ms. Chandnani for Respondent Nos.4 to 11 except Respondent No.8 has supported the submissions made by Mr. Kumbhakoni.

6. When the present matter was heard previously on 22.04.2026, the following order came to be passed:-

> *"**1.** Heard Mr. Naik, learned Senior Advocate for Petitioners; Mr. Deolekar, learned AGP for Respondent Nos. 1 & 2; Mr. Kumbhakoni, learned Senior Advocate for Respondent No. 3, Ms. Chandnani, learned Advocate for Respondent No. 4, Mr. Kasle, learned Advocate for Respondent No. 12 and Mr. Dwarkadas, learned Senior Advocate for Respondent Nos. 13 to 26.*
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> ***2.** Heard Mr. Naik & Mr. Dwarkadas, learned Senior Advocates espousing the cause of original owner and Mr. Kumbhakoni, learned Senior Advocate for Respondent No. 3. After hearing the respective submissions, Mr. Naik draws my attention to the order dated 07.04.2026 and persuades me to reconsider some of the observations made therein attributable to the Petitioners' conduct before the Trial Court on the basis of roznama.*
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> ***3.** After hearing him, it appears that the directions contained in paragraph No. 5 of the previous order dated 07.04.2026 need to be clarified since he has placed on record the roznama before the Trial Court wherein Application below Exh. 507 filed by the Plaintiffs therein is being argued and the delay is therefore not attributable to the Petitioners herein.*
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> ***4.** I have impressed upon the parties before me that the facts of the present case are such that the impugned order dated 11.11.2024 passed by the Additional Divisional Commissioner, Pune in Revision proceedings is prima facie not sustainable especially when it sets aside three concurrent findings of facts by Tahsildar (dated 02.04.2019), SDO (19.12.2019) and Additional Collector (04.08.2022). There is also a specific prayer in the Petition which seeks direction that entry in the revenue record shall be subject to the outcome of pending Civil Suit. It is startling to note that Civil Suit No. 54/1998 which is now nomenclatured as Suit No. 4/2026 is pending for 28 years in the Civil Court. Mr. Naik has informed the Court today that the plaint has been amended twelve times by Respondent No. 3 (Plaintiff therein) and the aforesaid Application below Exh. 507 which is pending is also filed by Respondent No. 3. In that view of the matter, Mr Naik would be right in his contention about the aspect of delay.*
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> ***5.** Lis before me is in the RTS proceedings and Civil Suit proceedings. It is trite law that in RTS proceedings, entitlement and title is never decided. That is the domain of the Civil Court itself. What is observed by this Court on reading the record of the case is that Petitioners' predecessors-in-title were granted appropriate reliefs by the Civil Court in Civil Appeal No.*

> *188/1973 as far back as on 07.06.1974. It is further seen that the said relief was confirmed by this Court on 02.07.1981 pursuant to which possession was handed over and mutation entry was effected. With such binding adjudication prima facie seen on the record, it would be therefore not be appropriate for the Revenue Authorities to interference with the mutation entries. Petitioners' sale deed has been duly registered in the year 2010 whereas their agreement for sale along with possession dates back to 1988. It is in these circumstance that this Court makes it clear to the Respondents i.e. contesting Respondents that the impugned order is not sustainable but equally lis between the parties will be determined by the Civil Court where it is pending.*
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> ***6.*** *Mr. Kumbhakoni has been gracious enough to consider what is falling from the Court and seeks some time to take appropriate instructions and apprise the Court.*
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> ***7.*** *Mr. Kumbhakoni therefore persuades the Court to grant sometime to Respondents to enable them to give appropriate instructions with respect to the suggestions opined by this Court in the previous order dated 07.04.2026, inter alia, relegating the parties to the Trial Court in a fixed time bound manner for determination of the Civil Suit proceedings between the parties without being influenced by any of the orders and observations and findings returned by quasi-judicial Authority in RTS proceedings. In that view of the matter, by consent of the parties, matter is placed for passing orders on 30.04.2026.*
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> ***8.*** *Be that as it may, Court makes an earnest request to the parties to take appropriate instructions and accordingly ensure that suit proceedings before the Trial Court are disposed of expeditiously in accordance with law which shall be in the interest of all the parties.*
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> ***9.*** *In the meanwhile, ad-interim relief granted earlier, if any, stands continued.*
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> ***10.*** *Stand over to* ***30th April, 2026*** *under the caption* ***"First on Board"."***

7. Carrying further from the aforesaid order today and with regard to the directions contained therein, Mr. Kumbhakoni, learned Senior Advocate has briefly taken me through the list of dates and since his client is the Plaintiff before the Trial Court has apprised me that in the Suit proceedings before the Trial Court, Plaintiffs have filed their Affidavit-in-lieu of evidence and the learned Trial Court has passed an order directing appointment of Court Commissioner to record the cross-examination of the Plaintiffs' witnesses. He would also apprise me about the order dated 13.08.2024 whereby the Suit proceedings before the Civil Court were directed to be disposed of within one year by this Court. Copy of this order is appended at page No.692 of the Writ Petition. Next he would draw my attention to the order dated 21.01.2026 of this Court appended at page No.693 of the Writ Petition by which the Suit has been directed to be disposed of early by the Trial Court.

8. In view of these orders and further extension having been granted, he would apprise the Court that the Suit is now directed to be disposed of by this Court before October 2026. He has argued one specific ground, *inter alia*, with regard to the names of the parties appearing in the Revenue Record notwithstanding the fact that this Court has made it very clear on the previous occasion and rather even today that rights of the parties will ultimately be subject to the decision in the Civil Suit proceeding to be finally decided by the Civil Court. He would however submit that if the names of the Petitioners are permitted to be continued in the Revenue Record, it will have a spiraling effect and it may lead to multifarious proceedings since his clients have apprehension that merely on that basis, the Petitioners may enter into further transactions with third parties and deal with the subject suit property.

9. Hence, he would submit that in order to obviate further litigation, the names in the Revenue Record of private Respondent Nos.3 to 11 need not be disturbed and their names and / or the names of predecessors-in-title of private Respondent Nos.3 to 11 (b) as appearing in the Revenue Record by virtue of Mutation Entry No.3895 be allowed to remain as it is alongwith the names of Petitioners also. He would also submit that this is specifically in view of the fact that Mutation Entry No.2550 pertaining to *lis pendens* was duly registered, despite which other members of the joint family belonging to one group entered into transaction with the Petitioners in the year 1988 and thereafter have a registered agreement in the year 2010.

10. He would therefore persuade me to consider retention of Mutation Entry No.6187 to show the names of private Respondent Nos.3 to 12 to be reflected and continued in the Revenue Record of the subject suit property until the final disposal of the Suit proceedings and accordingly pass appropriate orders.

11. Ms. Chandnani and Mr. Kasle, learned Advocate for Respondent Nos.4 to 11 and Respondent No.12 except Respondent No.8 have adopted the submissions of Mr. Kumbhakoni and for brevity same are not reiterated herein.

12. ***PER CONTRA***, Mr. Naik, learned Advocate for Petitioners in response to the aforesaid submissions made by Mr. Kumbhakoni has raised very strong objections. He would draw my attention to the impugned order appended at page No.47 dated 11.11.2024 and more specifically paragraph No.6.16 therein to contend that even according to the learned Additional Divisional Commissioner who has upset the three concurrent orders passed by the Statutory Officers in RTS proceedings, entries in the Revenue Record will have to be effected and will be subject to the final decision and outcome of the Civil Suit proceeding between the parties, as held by him. Hence he would submit that the Additional Divisional Commissioner who has passed the impugned order while referring to the pending Civil Suit proceeding has despite pendency of the Civil Suit No.4 of 2026 directed entries to be made in the Revenue Record to the extent of the two-third share in the subject suit property thus stepping into the shoes of the Civil Court which according to him is impermissible in law.

13. Next, Mr. Naik would submit that this Court in Writ Petition No.8330 of 2003 has passed a specific order dated 03.03.2005 disposing of the Writ Petition, copy of which is appended at page No.333. Mr. Naik would submit that this Court in Writ Petition No.8330 of 2003 filed by the predecessors-in-title of the Petitioners against the contesting answering Respondents herein has passed order dated 17.03.2005 wherein the submissions made on behalf of the contesting answering Respondents represented by Mr. Kumbhakoni are recorded by the Court in paragraph No.4 therein. He would submit that even according to the answering Respondents, it was their very own case that they had filed Special Civil Suit No.54 of 1998 (re-numbered as Suit No.4 of 2026) claiming partition, injunction and separate possession and shares which would undoubtedly be determined by the Civil Court and parties would then be at liberty to apply for Mutation in accordance with the findings returned by the Civil Court.

14. Therefore, Mr. Naik would persuasively contend that it now cannot lie in the mouth of private contesting Respondents to argue to the contrary in the present case and seek retention of their names in the Revenue Record, when admittedly by Mutation Entry No.3895 their names came to be added was passed in an Application filed by the private Respondents without giving notice to the Petitioners despite the order dated 17.03.2005 passed by this Court.

15. Mr. Naik has infact argued that private contesting Respondents had got their names mutated in the Revenue Record through misrepresentation without notice to the Petitioners or their predecessors and most importantly without any enquiry. He would submit that when Petitioners learnt about Mutation Entry No.3895, they challenged the same before the Sub-Divisional Officer in Appeal wherein by order dated 03.08.2005, the said Mutation Entry was cancelled and names of Respondent Nos.3 to 12 were deleted from the

Revenue Record vide Mutation Entry No.6187. He would submit that this order was further confirmed in appeal by the Additional Collector by order dated 07.04.2017 passed in RTS proceedings and it is this very order which has not been challenged further by the private answering Respondents and instead in a parallel proceedings, the private Respondents have proceeded once again with the same cause of action.

16. The sum and substance of Mr. Naik's submissions as concluded by him is that in view of the aforesaid position, the request and submission made by Mr. Kumbhakoni to allow retention of names of private Respondent Nos.3 to 12 in the Revenue Record is not correct and rather contrary to record since they have themselves not challenged the order dated 07.04.2017 passed by the Additional Collector confirming Mutation Entry No.6187 by virtue of which Mutation Entry No.3895 adding their names stood deleted. He would urge the Court to therefore pass appropriate orders in view of pendency of the Civil Suit proceedings between the parties in accordance with law.

17. Mr. Thevar, learned Advocate for Respondent Nos.13 to 26 has adopted the submissions of Mr. Naik.

18. I have heard the submissions made by the learned Senior Advocates, Advocates and learned AGP and perused the record of the case with their able assistance. Submissions made by them have received due consideration of the Court.

19. At the outset, it would be appropriate to consider the *lis* before the Court which emanates from RTS proceedings. It is seen that there are three concurrent orders passed by the Tahsildar, Sub-Divisional Officer and Additional Collector between the years 2019 and 2022 which have been upset and set aside by the impugned order passed by Additional Divisional Commissioner in revision proceedings. Dispute is relating land parcel as delineated hereinabove.

20. Case of the Petitioners is that they have been put in possession of the land parcel since the year 1988 pursuant to Agreement for Sale and subsequently they have a registered Sale Deed dated 26.11.2010 in their favour. There are other facts also which find mention in my previous order, but need not be gone into. As opposed to the above dates, the contesting private Respondents represented by Mr. Kumbhakoni are claiming a share in the subject suit property and have sought partition and division through Civil Suit No.54 of 1998 which is now renumbered as Suit No.4 of 2026 and which is pending adjudication in the Civil Court. Thus title and entitlement is in dispute and is sub-judice before the Competent Civil Court. Mr. Kumbhakoni has also apprised the Court about the current status of the suit proceeding since the private contesting Respondents are the Plaintiffs therein.

21. In my order dated 07.04.2026, I have recorded that the Civil Suit is pending for 28 years. It is seen that even after the impugned order dated 11.11.2024 was stayed by this Court on 13.12.2024, the order dated 12.01.2026 records that some of the private Respondents have entered into registered Agreement for Sale despite the stay on the impugned order. This is something which is sought to be prevented by the answering Respondents themselves, but they have acted to the contrary.

22. Be that as it may, there are substantial and several disputed questions of facts including limitation and entitlement which will undoubtedly be dealt with and decided in the pending Civil Suit. Once pendency of Civil Suit is observed by the Court, it is trite that the said Civil Suit proceedings will finally determine the *lis* and entitlement of the parties in accordance with law.

23. In so far as Mutation Entries are concerned, such entries are made for fiscal purpose and do not establish title. At the highest the said entries have secondary or tertiary value to corroborate the title of the parties. However, such entries before being recorded have to undergo the rigour of law and the prescribed procedure. Competent Authority has to invite objections from all stakeholders before deleting and mutating such entries in accordance with the stipulated procedure under MLRC, 1966. In the present case, once the private contesting Respondent Nos.3 to 12 have filed the substantive Civil Suit pending in the Trial Court, it would be inappropriate for this Court to give any imprimatur on facts on the basis of documents which are placed before this Court since it will undoubtedly hamper trial. Equally, the Court will also have to be vigilant so as to not allow any litigant or party to overreach the Revenue Record and rule of law.

24. *Prima facie*, in the present case, it is seen that in view of private Respondents not having challenged the order dated 07.04.2017 passed by the Additional Collector confirming the order dated 03.08.2015 passed by the Sub-Divisional Officer in Appeal No.77 of 2006, by virtue of which Mutation Entry No.6187 was passed cancelling the previous Mutation Entry No.3895 by virtue of which names of private Respondents were directed to be added in the Revenue Record, I am unable to accept the submissions made by Mr. Kumbhakoni for retention of the names of the contesting private Respondent Nos.3 to 12 in the Revenue Record. This is one strong circumstance which persuades me to hold so.

25. However, I clarify that all rights and contentions of the parties before me whether it be Petitioners or even the private Respondent Nos.3 to 12 or any other Respondents are expressly kept open in the Civil Suit proceedings which shall determine the final outcome and *lis* between the parties. Once the same is determined and for which the timeline has now already been fixed by this Court within which it is to be decided before October 2026, and for the aforementioned *prima facie* observations and findings the impugned order dated 11.11.2024 passed by the Additional Divisional Commissioner, Pune in Revision Proceeding No.518 of 2022 is not sustainable and is therefore quashed and set aside.

26. In that view of the matter, the orders passed by the Tahsildar dated 02.04.2019, order passed by the Sub-Divisional Officer dated 19.12.2019 and the order passed by the Additional Collector dated 04.08.2022 stand restored and confirmed.

27. It is therefore directed that in view of this order, Mutation Entry No.6235 shall revive and stand continued with regard to the subject land and it shall remain in force subject to the final outcome of the Civil Suit proceedings namely Suit No.4 of 2026 which is pending adjudication and which is ripe for evidence before the Trial Court.

28. As noted herein above, the learned Trial Court has already appointed a Court Commissioner for recording the cross-examination of the Plaintiffs' witnesses. In that view of the matter, Plaintiffs are directed to ensure that they shall not take any adjournments and equally Defendants therein are also directed that they shall also not take any adjournments unless absolutely necessary. Learned Trial

Court shall ensure that since the Suit is more than 28 years old, it will be disposed of expeditiously before October 2026 in any case.

29. Parties before the Civil Court are directed by the Court to complete the Suit proceedings as expeditiously as possible and as directed by this Court strictly in accordance with law.

30. Learned Trial Court is directed to take cognizance of this order and accordingly ensure that the Civil Suit is determined in accordance with law. Parties shall present a server copy of this order before the learned Trial Court before 08.05.2026 at 11:00 a.m. for Court's information.

31. In view of the above, Writ Petition succeeds and the impugned order dated 11.11.2024 stands quashed and set aside. However, it is clarified that this Court has not given any imprimatur on facts so as to affect the Civil Court proceedings in Civil Suit No.4 of 2026 between the parties and the Civil Suit shall be determined on the basis of evidence of the Plaintiffs and evidence in rebuttal of the Defendants therein.

32. In so far as the Revenue Record is concerned, the orders dated 02.04.2019 passed by the Tahsildar, order dated 19.12.2019 passed by the Sub-Divisional Officer and the order dated 04.08.2022 passed by the Additional Collector are restored and confirmed for the present until the determination of the Suit proceedings and they shall be subject to the outcome of the Civil Suit proceedings.

33. All contentions of the parties are expressly kept open otherwise.

34. Needless to state that private Respondent Nos.3 to 11 and 12 are therefore restrained from creating any further third party rights with regard to the suit property until the Civil Suit is finally determined by the learned Trial / Civil Court.

35. All parties are directed to act on a server copy of this order downloaded from the website of the Bombay High Court.

36. In view of the above directions, Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

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