Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9237 OF 2014

Supadu Bala Jadhav, Deceased thr. Lrs.
And Others … Petitioners

V/s.

Shree Mahadeo Mandir Sangameshwar
Trust Malegaon and Others … Respondents

WITH
WRIT PETITION NO.6881 OF 2015

Dadaji Jagannath Khairnar and Others … Petitioners

V/s.

Mahadev mandir Trust and Another … Respondents

WITH
INTERIM APPLICATION NO.7941 OF 2024

Dadaji Jagannath Khairnar and Others … Petitioners

V/s.

Mahadev Mandir Trust Sangmeshwar
and Another … Respondents

WITH

INTERIM APPLICATION NO.7940 OF 2024

Dadaji Jagannath Khairnar Since deced.
Thr. His Heirs and Legal Representatives
and Others … Petitioners

V/s.

Mahadev Mandir Trust and Another … Respondents

WITH
INTERIM APPLICATION O. 7942 OF 2024

Dadaji Jagannath Khairnar and Others … Petitioners
V/s.
Mahadev mandir Trust Sangmeshwar and Another … Respondents

Mr. Joel D'souza, i/b Suresh M. Kamble, for Petitioner in WP-6881/2015.

Ms. Nikita Kamble with Kiran Patil i/b S. Kamble, for Petitioner in WP/9237/2014.

Mr. R. M. Haridas with Pratik Brahade, for Respondents.

Ms. Savina R Crsto, AGP for State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 18, 2026

P.C.:

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1. The present petition has its origin in proceedings arising from a mutation entry recorded in the revenue record. The Revisional Authority, while exercising powers under the Maharashtra Land Revenue Code, examined the challenge raised to that entry. Mutation entries do not create or extinguish title. They only reflect changes for fiscal purposes. Even so, once an order is passed in such proceedings, the party aggrieved must pursue the remedy provided by the statute under which the order has been made. The dispute in the present case travels through this limited but important framework.

2. The main grievance of the petitioner is that the surrender said to have been effected by the Tahsildar by order dated 03rd August, 1994 was not in conformity with the provisions of the relevant Act and Rules. According to the petitioner, the procedure prescribed for a valid surrender was not followed and therefore the subsequent mutation based on such surrender is unsustainable. The Revisional Authority, however, did not enter into the merits of that contention. It observed that if the petitioner questions the legality of the surrender order passed by the Tahsildar, the appropriate remedy lies by way of an appeal under Section 74 of the Maharashtra Tenancy and Agricultural Lands Act. On that reasoning, the petitioner was relegated to avail the statutory appellate remedy. This direction was then carried before the Maharashtra Revenue Tribunal.

3. The Maharashtra Revenue Tribunal, by the impugned order, declined to interfere. The Tribunal held that an order passed under the Maharashtra Land Revenue Code cannot be indirectly challenged by invoking revisional jurisdiction under the Bombay Tenancy and Agricultural Lands Act. In other words, each statute provides its own hierarchy of remedies. A proceeding under one enactment cannot be converted into a platform to test the legality of an order passed under another enactment, unless the statute expressly permits such course. The Tribunal, therefore, concluded that the revision was not maintainable.

4. On careful consideration, this approach does not disclose any illegality. The scheme of the statutes is clear. The Land Revenue Code governs revenue entries and related proceedings. The Tenancy Act provides a separate mechanism to challenge orders concerning tenancy rights, including surrender. When a specific remedy of appeal is available under Section 74 of the Tenancy Act against an order of surrender, that remedy must be exhausted in accordance with law. Jurisdiction cannot be assumed where the statute does not confer it. The Tribunal merely enforced this discipline of statutory remedies. There is no jurisdictional error in declining to entertain a revision which the statute does not contemplate.

5. In that view of the matter, the present petition does not merit interference. Entertaining it would amount to bypassing the statutory framework and permitting parallel remedies. However, it is clarified that the petitioner’s contention regarding the validity of the surrender dated 03rd August, 1994 is kept open. If the law permits the petitioner to raise that challenge before the competent forum, it may be pursued in accordance with the procedure prescribed.

6. The Writ petition is disposed of.

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7. For the reasons stated in the applications, all the applications are allowed in terms of prayer clauses ‘a, b and c’.

8. Necessary amendment is to be carried out forthwith.

9. The Interim Applications are allowed and the same are disposed of.

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10. Leave to amend to add the State Government as respondent no. 3.

11. Amendment is to be carried out forthwith.

12. The petitioner has approached this Court questioning the legality of the order passed by respondent No. 3, by which the revision preferred under Section 257 of the Maharashtra Land Revenue Code came to be dismissed. In substance, the petitioner contends that the revisional authority failed to examine the matter in its proper perspective and mechanically affirmed the earlier orders. It is therefore necessary to see whether the revisional authority acted within the limits of its jurisdiction and whether any legal infirmity is made out.

13. The root of the dispute lies in the order dated 03rd August, 1994 passed by the Tahsildar under Section 15 of the Maharashtra Land Revenue Code. By that order, the Tahsildar recorded surrender and, as a consequence, the name of the tenant was deleted from the revenue record. A mutation entry followed. It is important to note that a mutation entry does not create or extinguish title. It only records a change for fiscal purposes. Once the Tahsildar passed the order of surrender, the revenue machinery was bound to reflect that order in the record of rights. The mutation entry was thus not an independent act. It was only a ministerial step taken to give effect to the order already passed.

14. The tenant has attempted to question the very validity of the surrender in proceedings under the Maharashtra Land Revenue Code. The authorities under that Code have consistently held that if the tenant disputes the surrender, the proper course is to invoke Section 74 of the Bombay Tenancy and Agricultural Lands Act and challenge the order of surrender before the competent forum under that Act. This reasoning cannot be said to be erroneous. The issue whether the surrender was voluntary, lawful, or vitiated by fraud or coercion are matters which fall squarely within the domain of the tenancy authorities. The revenue authorities functioning under the Land Revenue Code are not equipped with jurisdiction to adjudicate upon the legality of a surrender governed by tenancy law.

15. Sections 149 and 150 of the Maharashtra Land Revenue Code make the position clear. The role of the revenue authorities is limited. They are required to enter changes in the record of rights on the basis of a registered instrument or on the basis of an order passed by a competent authority under a special statute such as the Bombay Tenancy and Agricultural Lands Act. They do not sit in appeal over such orders. They cannot test their correctness. If every mutation proceeding were to become a forum for reopening substantive orders passed under other enactments, the entire scheme of statutory remedies would collapse. The authorities were therefore justified in declining to examine the validity of the surrender while dealing with mutation proceedings.

16. In this background, the State Government was correct in repelling the petitioner's challenge. The revisional authority has not committed any jurisdictional error. No perversity is demonstrated. The impugned order does not warrant interference in writ jurisdiction. However, it is clarified that if the petitioner has a remedy under the tenancy law, including an appeal or appropriate proceedings permissible in law, such remedy remains open. The present decision will not preclude the petitioner from availing such remedy in accordance with law.

17. The Writ petition is disposed of.

(AMIT BORKAR, J.)