Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5546 OF 2025

Surendramani Devatadin Tripathi and Ors. .. Petitioners
Versus
State of Maharashtra and Ors. .. Respondents

…………………

- Mr. G.N. Salunke i/b. Ashutosh Dube, Advocates for Petitioners.
- Ms. V.S. Nimbalkar, AGP for Respondent No.1 – State.

…………………

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 28, 2026.

P.C.:

1. Heard Mr. Salunke, learned Advocate for Petitioner and Ms. Nimbalkar, learned AGP for Respondent No.1 – State.

2. Writ Petition assails judgment dated 14.10.2024 passed by State in Revision proceedings under the Maharashtra Land Revenue Code, 1966 (for short "**MLRC, 1966**")

3. Mr. Salunke, learned Advocate for Petitioners would submit that Petitioner Nos. 2 - 5 (Patil family) are re-grantees of subject lands which are Class - II lands on new and restricted tenures under Abolition of Patil Inam Watan Act. He would submit that Mutation Entry No.595 dated 28.04.1963 was effected in name of predecessors of Petitioner Nos. 2 - 5. He would submit that private Respondent No.3 Gajanan Govind Alimkar forged signature of the landholders and without obtaining permission under Watan Act registered a Sale Deed on 03.05.1971 and certified Mutation Entry No.824 on 08.04.1973 in respect of the subject land. He would submit that this Mutation Entry was set aside and successors - in - title and names of legal heirs of Petitioner Nos. 2 - 5 were thereafter mutated as holders in regard to subject land which was never challenged by private Respondent No.3 Gajanan Govind Alimkar for more than 40 years. In effect, he would submit that by virtue of subsequent Mutation Entries, Mutation Entry No.824 was obliterated.

4. He would submit that in 2007 being aggrieved, private Respondent No.3 Gajanan Govind Alimkar filed Regular Civil Suit No.649 of 2007 against Petitioner Nos.2 - 5 seeking declaration, injunction and other reliefs in regard to subject land. He would submit that after a full fledged trial, Civil Court passed judgment dated 28.03.2013 dismissing the Suit and returned two specific findings that the Sale Deed dated 03.05.1971 claimed to be in favour of private Respondent No.3 Gajanan Govind Alimkar was executed without prior permission of the Competent Authority and the said private Respondent No.3 Gajanan Govind Alimkar was never in possession of subject land. Copy of this judgment dated 28.03.2013 is appended at Exhibit "F" page No.38 to present Petition. He would submit that above judgment was not challenged any further by private Respondent No.3 Gajanan Govind Alimkar and hence it attained finality.

5. In the above background, it is seen that private Respondent No.3 Gajanan Govind Alimkar filed RTS Appeal No.219 of 2013 for revival of Mutation Entry No.824 dated 08.04.1973. *Prima facie* there is a delay of 41 years. Record shows that no condonation of delay application is filed by private Respondent No.3 Gajanan Govind Alimkar. Further in the meanwhile, Gajanan Govind Alimkar expired and his legal heirs being Respondent Nos.3(a) to (h) are impleaded as private Respondents.

6. When the matter is called out, Advocate for private Respondents are not present. Record shows that private Respondents are duly represented by Advocates since 12.12.2025. All office objections are removed. Additional Government Pleader appears in the matter for the State. Matter is listed on Supplementary Board. Mr. Salunke informs the Court that all Respondents are duly served, all objections are removed and Respondents are represented by Advocates. Hearing of the matter cannot be delayed any further.

7. It is seen that Sub - Divisional Officer (for short "**SDO**") allowed appeal filed by original private Respondent by order dated 08.01.2014. Two crucial facts, namely, fact that condonation of delay application was ignored in said order and the further fact that original private Respondent failed in Suit proceedings to fructify his title are ignored in the said order. The SDO solely relied upon Government

Resolution dated 09.07.2002 holding that Mutation Entry No.824 of 1973 can be revived as valid if private Respondent is directed to pay 50% of the market value of the subject land as on date. This order is appended at Exhibit "G" to the Petition whereby the SDO after 41 years has revived Mutation Entry No.824 and resultantly this order sets aside 4 intervening long standing Mutation Entries effected over the said 41 years.

8. It is seen that Petitioner filed Appeal before the Additional Collector which set aside SDO's order holding that SDO has no jurisdiction to grant such permission and allow appeal. Thereafter the private Respondents approached Additional Commissioner in first Revision proceedings and judgment dated 21.08.2018 was passed upholding order of Additional Collector. In the meanwhile, despite the above order, Tahsildar suo moto called for a hearing before Deputy Collector for payment of 50% of market value by original private Respondent No.3 which was strongly resisted by Petitioners. However the SDO went ahead and passed order dated 12.02.2019 regularising the Sale transaction of 1971 and Mutation Entry No.824 on the basis of Government Circulars and Resolutions allowing private Respondents to deposit 50% market value of subject lands was passed without considering the decree of the Civil Court.

9. The Petitioners being aggrieved, challenged order dated 12.02.2019 before Additional Collector which was dismissed without assigning any reasons. In second Revision before State, Revision is further dismissed paving the way for Respondent No.3 to pay the amount of 50% of market value to regularise the 1971 Sale transaction after 41 years, pursuant to which mutation was effected and names of private Respondents are mutated and entered.

10. I have heard Mr. Salunke learned Advocate for Petitioners, Mr. Nimbalkar, learned Additional Government Pleader for Respondent No.1 and with their able assistance perused the entire record of the case. Submissions made by learned Advocates at the bar have received due consideration of the Court.

11. At the outset it is seen that all quasi – judicial authorities below have committed a gross error in ignoring the judgment passed by the Civil Court in Regular Civil Suit No.649 of 2007 dated 28.03.2013. Suit of private Respondent is dismissed therein. Finding of fact that sale transaction was without prior permission from Competent Authority is upheld by Civil Court and further finding of fact that private Respondent was not in possession of subject lands was returned.

12. It is seen that most importantly, judgment dated 28.03.2013 passed by Civil Court in Regular Civil Suit No.649 of 2007 became absolute and final. Once the Civil Court returns the above findings, quasi – judicial authorities cannot sit in appeal and determine the title by regularising the same sale transaction. They in any event do not have the right and authority to determine question of entitlement and adjudicate disputed question of title in RTS proceedings. This is the basic fallacy in the orders passed by the quasi – judicial authorities which are challenged herein. The order passed in Appeal by Additional Collector, Thane in RTS No.191 of 2016 holding that such power to grant permission only lies with Government and SDO cannot grant permission to pay 50% market value for entitlement after 41 years without even condoning the delay is the correct order and ruling in the present case. What is shocking is that in the meantime, SDO has allowed private Respondent to pay the amount of Rs.1.22 crores on 29.03.2014 and has certified fresh Mutation Entry No.2028 dated 11.04.2014.

13. The conduct of SDO despite order dated 08.01.2014 been set aside by Additional Collector and Additional Commissioner is *prima facie* shocking. Repeated attempts are made by SDO to aid and assist the private Respondents' case herein however facts in the present case are such that original private Respondent has lost in the Civil Court. He has not challenged that judgment in first appeal, therefore through RTS proceedings and with the collusion and aid of SDO, despite the order dated 08.01.2014 being set aside, private Respondents are allowed to deposit 50% market value of subject land, mutation is effected and a sale transaction rejected by the Civil Court is accepted for transfer of the subject land. Such an action on the part of the SDO is not only high handed, but illegal altogether. It cannot be sustained at all and deserve to be interfered with forthwith.

14. It is seen that gross dereliction has taken place whereby despite the SDO's order dated 08.01.2014 having been set aide, 4 years thereafter the Tahsildar has called for hearing before the Collector with regard to implementation of the same order. Such conduct of the quasi judicial officers determining and adjudicating title taking advantage of Government Resolutions, when the Civil Court has specifically returned a finding of fact regarding possession never been with the original private Respondent No. 3 cannot be countenanced. Reliance is placed on Government Resolution dated 17.07.2008 by the said Authority but that Government Resolution applies only when possession of land is with the concerned party / regrantee at the time of application for seeking regularization. In the present case, admittedly Mutation Entry No.824 of 1973 was quashed and set aside by 4 subsequent Mutation Entries and most importantly possession of the subject land has always and at all times remained with Petitioner Nos.2 to 5. The categorical finding in judgment dated 28.03.2013 that original private Respondent No.3 was never in possession of the subject land renders applicability of the Government Resolution dated 17.07.2008 completely infructuous to the case of the original private Respondent No. 3. This is a classic case where a litigant loses in the Civil Court, chooses not to challenge the judgment in appeal and acquires the same relief in RTS proceedings with the blessings of the Revenue Officers.

15. Once this is the position, order dated 14.10.2024 passed by State, order dated 13.12.2019 passed by the Additional Commissioner and order dated 12.02.2019 passed by Deputy Collector regularizing transaction of 1971 reviving Mutation Entry No.824 in the aforesaid facts and circumstances and certifying new Mutation Entry 2028 is impermissible in law, wholly illegal and are therefore quashed and set aside.

16. In view of the aforesaid observations and findings, Petition succeeds. The aforesaid orders are quashed and set aside. Rights of private Respondents acquired through the original private Respondent No.3 (Govind Gajanan Alimkar) to file statutory First Appeal to challenge the judgment dated 28.03.2013 passed in Regular Civil Suit No.648 of 2007 is kept open strictly in accordance with law. That is the correct course of action. RTS proceedings and Government Resolution cannot be used as a ruse to transfer title of land holdings in the manner in which it is done in the present facts and circumstances. In view of the above, Mutation Entry 2028 certified on 11.04.2014 is quashed, set aside and cancelled. Mutation Entry No.824 which superseded Mutation Entry No.595 is quashed and set aside. Original Mutation Entry No.595 dated 28.04.1963 is hereby restored, which shall be effected in the Revenue Record by the concerned Competent Authority within a period of 2 weeks form the date of service of a server copy of this order on the concerned authority by the Petitioners.

17. Writ Petition is allowed and disposed of.

[MILIND N. JADHAV, J.]

Ajay

RAVINDRA MOHAN AMBERKAR

Digitally signed by RAVINDRA MOHAN AMBERKAR
Date: 2026.05.01 18:43:41 +0530