

Navratna Lands & Estate Pvt. Ltd. and Ors.	...	Petitioners
versus		
The State of Maharashtra and Ors.	...	Respondents

CORAM: N.J.JAMADAR, J.

DATE : 6 APRIL 2026

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. This Petition under Articles 226 and 227 of the Constitution of India, raises an issue of the justifiability of the actions of the authorities of the State in preventing the Petitioners from getting an instrument registered under the Registration Act, 1908.

3. The background facts in which the aforesaid issue arises, can be stated, in brief, as under :

3.1 Nashik Diocesan Council Trust is a Public Trust registered under the provisions of the Maharashtra Public Trusts Act, 1950. The said Trust was the holder of the immovable properties bearing CTS No.6874 (part), 6875, 6876, 6877, 6878, 6880, 6881, 6882, 6883 (part) having original Plot Nos.288 and

289, final Plot No.358, admeasuring 2 Hector 86.36 Are, situated at Nashik (the Trust Properties). On 22 February 2001, the Trust obtained permission of the Charity Commissioner, Mumbai, for sale of the portions of the properties, admeasuring 26,000 sq. mtrs., in favour of M/s. Thakkar Developers or its nominees, under Section 36 of the Act, 1950.

3.2 The Petitioner Nos.1 and 2, in their capacity of the nominees of M/s. Thakkar Developers, purchased land admeasuring 2,000 sq. mtrs., and 1132.80 sq. mtrs., respectively, under the registered Sale Deed dated 13 March 2001 (the subject properties). The names of the Petitioners were mutated to the property card of the subject properties.

3.3 The Petitioners assert, the challenge to the order of the Charity Commissioner granting sanction for sale of the Trust property under Section 36 of the Act, 1950 was negated by this Court and the Supreme Court. Nashik Diocesan Trust Association Pvt. Ltd. initiated proceeding in respect of the Trust Property. Initially, a suit was instituted by the said Company, being SCS No.415 of 2014. Proceedings were also filed before the revenue authorities assailing the mutation entries.

3.4 Eventually, by an order dated 27 June 2022, the State Government dismissed the Revision Application. However, by an order dated 14 October 2024, the State Government reviewed its earlier order dated 27 June 2022 and the said order was cancelled. The Petitioners have preferred a Petition

against the said order before this Court.

3.5 On 5 April 1991, the Trust, under a Lease Agreement, had granted lease in respect of the land admeasuring 9793.872 sq. mtrs., situated at Sharanpur Gaothan, Dist. Nashik, and the structures standing thereon, to the Commissioner of Police (R2), initially for a term of three years. Before the term of the lease expired, the Trust executed a Lease Agreement with the Respondent No.2 on 11 June 1992 for a further term of 21 years commencing from 1 November 1993 to 31 October 2014.

3.6 It is the claim of the Petitioners that, after the expiry of the said term, the lease has not been renewed. Petitioner Nos.1 and 2 entered into an agreement with Petitioner No.3 to sell the subject lands totally admeasuring 3132.80 sq. mtrs. Substantial consideration was parted with by Petitioner No.3. When the Petitioners approached the Registrar of Assurances (R4) to register the sale deed, Respondent No.4 refused to register the said deed. No reasons were provided for the refusal. Thus, the Petitioners obtained information under the Right to Information Act. Thereupon, it transpired that the Deputy Commissioner of Police (R5) had addressed a communication to the Joint District Registrar (R3) to instruct the Sub-Registrars under the latter's supervision not to register the instrument in respect of the properties bearing Survey Nos.6875, 6878, 6883 and 6887, on which the establishments of the Deputy Commissioner of Police, Assistant Commissioner of Police and

the Riot Control Police, Nashik, were situated.

3.7 On the basis of the aforesaid communication, Respondent No.3 had, in turn, instructed all the Sub-Registrars, including Respondent No.4 not to register any instrument in respect of the subject properties.

3.8 The Petitioners have thus invoked the writ jurisdiction of this Court, questioning the authority and the alleged high-handed action of the police authorities to direct the authorities under the Registration Act, 1908, not to register the instrument in respect of the properties of which Petitioner Nos.1 and 2 are the owners. The action of the Respondent No.4 in refusing to register the instrument on the basis of the communication addressed by the Deputy Commissioner of Police, sans any authority, is also stated to be wholly illegal and in breach of the statutory duties of the Registrar of Assurances.

4. The response of the State Government to the Petition was of evasion. Time was sought by the learned Govt. Pleader on 22 August and 6 October 2025. No affidavit in reply was filed on behalf of the State Government. On 23 March 2026, again an adjournment was sought. Mrs. Jadhav, learned AGP, sought time to take instructions on the ground that, though a communication was received from the Respondents, further instructions were yet not received. By way of indulgence, one week time was granted.

5. Today, Mrs. Bhide, learned Govt. Pleader, appeared for the Respondents and submitted that, though an affidavit in reply could not be

filed, the State opposes the Petition.

6. Mr. Deshpande, learned Counsel for the Petitioner submitted that, the authorities of the State have acted in a wholly illegal and arbitrary manner. The police department, which claims to be the lessee of a portion of the subject property, has no authority to prohibit the registration of the instrument by addressing a communication to the authorities under the Registration Act, 1908. There is no restraint by any Court on the transfer of the subject properties and execution and registration of the instruments in regard thereto. In such a situation, the impugned communication and the consequent action of the Respondent No.4 to refuse to register the instrument deserve to be quashed, and a mandamus be issued to Respondent No.4 to register the sale deed.

7. A feeble attempt was made by Mrs. Bhide to justify the action of the authorities.

8. The aforesaid narration of facts makes it explicitly clear that the Trust has sold the subject properties in the year 2001 after obtaining sanction of the Charity Commissioner under Section 36 of the Act, 1950. The names of Petitioner Nos.1 and 2 were mutated to the property card of the subject property as owners thereof. It does not appear that any civil Court has passed an order which throws a cloud of doubt over the title of the Petitioner Nos.1 and 2 or, otherwise, restrains the Petitioner Nos.1 and 2 from

exercising the incident of ownership.

9. From the perusal of the impugned communication addressed by the Deputy Commissioner of Police (R5) to the Joint Registrar (R3), it also becomes crystal clear that the Police Department claims that its establishments are situated on the portions of the subject properties. Evidently, the claim of the police department stems from the lease granted by the Trust before the sale of the subject properties. At best, the police department is the lessee, whose term of lease is yet to expire, or the lessee holding over.

10. In the aforesaid backdrop, the justifiability of the action of the Respondent No. 5 in instructing the Registrar of Assurances not to register the instruments in respect of the subject properties and the consequent refusal to register the instruments, warrants consideration.

11. At the outset, it is necessary to note that, no effort was made by the Respondents to justify the action by filing an affidavit in reply. It seems, nobody is willing to take the responsibility for the impugned action. It defies comprehension as to what authority the police department has to prohibit the registration of the instruments. Respondent No.4's communication reveals that the authorities were sought to be restrained from registering the instruments as the establishments of police were situated on the subject properties. It needs to be emphasised that the police department has no

better rights or privileges than the private litigant or citizen, when a dispute arises over the possessory or proprietary rights of the police department in relation to immovable properties. The action of the police department was, therefore, sans any semblance of authority and wholly illegal.

12. What exacerbates the situation is the abdication of the statutory duties by the Registrar under the Registration Act 1908. Section 17 of the Registration Act, 1908, stipulates the documents which are required to be compulsorily registered. Under Clause (b) of Sub-section (1) of Section 17, non-testamentary instruments which purport or operate to create, declare, assign limit or extinguish, any right, title or interest to or in immovable property of the value of Rs. 100/- and upwards, are required to be compulsorily registered. Section 49 of the Act 1908, provides the consequences of non-registration. An unregistered document shall not affect any immovable property comprised therein or be received as evidence of any transaction affecting such property. A refusal to register the document, which is required to be compulsorily registered, thus entails the consequence of frustrating the transaction between the parties as no legal effect can be given to the instrument evidencing such transaction for want of registration.

13. Section 32 of the Registration Act 1908 provides for presentation of the document for registration. Section 34 stipulates that, subject to the provisions referred to in it, no document shall be registered unless the persons executing

such document, or their representatives, assigns or agents authorized, appear before the registering officer within the time allowed for presentation. Sub-section (3) of section 34 incorporates the duties of the registering officer to enquire whether or not such document was executed by the purported executants, and satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document and the representative, assign or agent of the executant.

14. Sub-section (1) of Section 35 casts a duty on the registering officer to register the document if the conditions stipulated therein are satisfied. Sub-Section (3) of Section 35 spells out the circumstances in which the registering officer shall refuse to register the document, namely, where the execution of the document is denied or the executant appears to be a minor, an idiot or a lunatic or the executant is dead, and his representative or assign denies its execution. Thus under the scheme of the Registration Act, 1908, if the requisite conditions for registration of a document are satisfied, the Registrar has no discretion to deny the registration of the instrument. The refusal to register the document for want of execution or otherwise, as enumerated in sub-section (3) of Section 35, has to be for the specified reasons only.

15. It would be contextually relevant to note that Chapter XII of the Registration Act 1908 contains provisions under the caption "Of Refusal to Register". Section 71 mandates that where the Sub-Registrar refuses to

register a document, he shall make an order of refusal and record reasons for such order. An appeal is provided under Section 72 from the orders of the Sub-Registrar refusing registration of a document on the ground other than denial of execution. Even when a document is refused to be registered on the ground that the executant has denied the execution, under Section 73 of the Registration Act, 1908, the aggrieved party has a right to apply to the Registrar in order to establish his right to have the document registered. In the event, the Registrar refuses the registration of the document, he is required to make an order and record his reasons for the same under Section 72 of the Act. Section 77 provides an avenue to the aggrieved party to institute a suit before the civil court where the Registrar refuses to order the document to be registered under Section 72 or Section 76, for a decree directing that the document be registered.

16. The aforesaid statutory regime underscores that the Registering Officer is not free to refuse the registration of a document at his sweet will. The refusal to register a document can only be for the specified reasons, backed by an order of refusal and recording of reasons in the prescribed Book. An appeal is provided against an order of the Sub-Registrar before the Registrar. Ultimately, the refusal to register an instrument can be tested before the Civil Court, by filing a suit.

17. In the case at hand, evidently the Registering Authorities have not

resorted to any of the provisions of the Registration Act, 1908 which enable the Registering Officer to refuse the registration. On the contrary, Respondent No.3 seems to have blindly followed the directive of Respondent No. 5 not to register the instrument and, in turn, instructed the Sub-Registrars under his supervision, not to register the instrument in respect of the subject land. The Registering Officers have clearly abdicated their duty under the Registration Act, 1908.

18. The aforesaid conduct of the authorities of the State brings to the fore the aspect of abuse of the authority by Respondent No.5. Had it been a case that the Respondent No.5 addressed the communication, during the course of investigation in connection with an offence *bona fide*, probably different considerations would have come into play. On the contrary, it seems that, Responder No. 5 had resorted to a similar device while seeking the deletion of the names of the petitioner Nos. 1 and 2 from the property card. An interim order passed by this Court in WP(ST)/21179/2025 dated 26th June 2025, records the manner in which Respondent No. 5 had tried to interfere in the matter of the mutation of names of the parties to the property card.

19. The relevant part of the said order reads as under:

“2. By this petition, the petitioners are challenging an order dated 03.06.2025 passed by respondent No.2-City Survey Officer No.1, Nashik, whereby mutation entries made in favour of the petitioners almost 25 years ago, stood deleted.

3. The material brought to the notice of this Court indicates a serious state of affairs, for the reason that the respondent No.2 has purportedly exercised

suo motu review powers under Section 258 of the Maharashtra Land Revenue Code, 1966, while passing the impugned order.

4. It is to be noted that the impugned order itself indicates the following:

(a) The impugned order passed purportedly on the basis of exercising suo moto review powers, had the effect of deleting mutation entries that have existed in favour of the petitioners for almost 25 years.

(b) There is blatant violation of principles of natural justice, as the order itself records that despite the petitioners remaining present before respondent No.2, seeking time of 15 days to file their replies, the respondent No.2 thought it fit to grant only 3 hours to the petitioners and other respondents to the said notices and thereafter, passed the impugned order in a tearing hurry.

(c) The detailed order passed on 03.06.2025 on the basis of notices issued only on 28.05.2025, prima facie indicates that either the order was already prepared or it was passed with predetermined mind.

(d) The power of review, when it can have the effect on the rights of private parties, is to be exercised on an application and that too, when such an application is made within 90 days of the earlier order making the mutation entries. These factors were obviously absent in the present case, showing perverse exercise of jurisdiction by respondent No.2 under Section 258 of the said Code.

(e) References given in the impugned order prima facie indicate that the proceeding itself was initiated at the behest of certain communications, inter alia, received from the Deputy Commissioner of Police, Zone-1, Nashik City, who can have no concern with the aforesaid issue of mutation entries, thereby indicating extraneous reasons, leading to the impugned order.

5. There is substance in the contention raised on behalf of the petitioners that in such extraordinary circumstances, this Court may consider, not only granting stay to the impugned order, but clarifying that such stay would mean that the mutation entries validly existing in favour of the petitioners for about 25 years, would remain in effect and revived, despite the impugned order.

.....

8. In the meanwhile, there shall be interim stay to the impugned order dated 03.06.2025 passed by respondent No.2, meaning thereby that the mutation entries existing in favour of the petitioners as well as others adversely affected by the impugned order, shall stand revived, during the pendency of this petition."

(emphasis supplied)

20. The aforesaid observations of this Court fortify the view this Court is persuaded to take that, the police department has abused its position as an

authority entrusted with law enforcement duties, to gain an undue advantage in the matter of the possessory and proprietary rights it asserts over the subject property by influencing the decisions of the authorities under the Registration Act, 1908. Therefore, the impugned communications indeed deserve to be condemned, quashed and set aside as they have the propensity to undermine the rule of law. The acts and conduct of the authorities of the State also warrant imposition of exemplary costs. The State would, however, be at liberty to fix the responsibility of the erring officers and recover the costs from them. The petition, therefore, deserves to be allowed.

21. Hence the following order:

: O R D E R :

- (i) The petition stands allowed.
- (ii) The impugned communication dated 29th January 2025 addressed by the Respondent No. 5 restraining the registration of the instruments in respect of the subject property and the consequent instruction issued by Respondent No. 3 to Respondent No. 4 not to register the instruments stand quashed and set aside.
- (iii) Respondent No. 4 shall register the sale deed if presented for registration in accordance to the provisions of the Registration Act, 1908 and the Rules thereunder, and the said instrument is otherwise in order.

- (iv) The Respondent No. 1-State shall pay costs of Rs. 1,00,000/- to Petitioners within a period of one month from the date of uploading of this order.
- (v) The Respondent No.1-State shall be at liberty to fix the responsibilities of the erring officers and recover the costs from them.
- (vi) Rule made absolute in the aforesaid terms.

(N.J.JAMADAR, J.)