

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.17770 OF 2025

Smt. Ayashabi Jabbir Momin

.. Petitioner

Versus

Sau Lila Gulab Rode and Others

.. Respondents

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- Mr. Abhijit B. Kadam, Advocate i/by Uday B. Nighot and Ms. Akanksha Gond for Petitioner..
 - Mr. Laxmikant N. Shrimangale a/w Mr. Ambadas N. Shrimangale and Mr. Vitthal Shrimangale, Advocates for Respondent Nos.1 to 5
 - Ms. Savita Prabhune, AGP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 08, 2026.

P.C.:

1. Heard Mr. Kadam, learned Advocate appearing on behalf of Petitioner, Mr. Shrimangale, learned Advocate appearing on behalf of Respondent Nos.1 to 5 and Ms. Prabhune, learned AGP appearing for Respondent No.8 to 13 and with their able assistance perused the record of the case.

2. Dispute in RTS proceedings between the private parties is the subject matter of *lis* before the Court. Mutation Entry No.582 dated 07.08.2006 carried out pursuant to Mojani Register No.332 of 2006 dated 13.05.2006 in respect of area pertaining to Hissa No.1 of Gat No.149/2B situated Satkarstal, Taluka – Khed, District - Pune is the subject matter of challenge in the proceedings.

3. Respondent Nos.1 to 5 filed Appeal to challenge and cancel the aforesaid Mojani Register and Mutation Entry after a period of more than 12 years before the Taluka Inspector of Land Records (for short “**TILR**”), Taluka - Khed, District – Pune, on the ground that there was a clear discrepancy in the area pertaining to Hissa No.1 of Survey No.149 / 2B. Premise of the case being that Respondent Nos.1 to 5 were entitled to area admeasuring 5Rs instead of 0.05Rs out of Hissa No.1. The Mojani Register had certified the area of Hissa No.1 to be 0H 0.05R whereas according to Respondent Nos.1 to 5 the said area ought to have been 0H and 5R and thus the challenge was maintained.

4. Mr. Shrimangale, learned Advocate for Respondent Nos.1 to 5 has placed on record a compilation of documents, *inter alia*, pertaining to various statutory letters, orders and plans pertaining to the discrepancy in computing and calculating the area of Hissa No.1 in the aforesaid Mojani Register No.332 of 2006. After taking me through the entire gamut of the documentary evidence he would submit that the precise area of Hissa No.1 was confirmed by virtue of NA Order and mutation carried out by Mutation Entry No. 240 dated 29.12.2000 the said entry is appended at page no.49 of the compilation which is subsequently mutated.

5. He would vehemently submit that pursuant to SDO, Khed's Order dated 31.01.2000 and correction of the area depicted in the map

and layout, the said correction was carried out as a result of which area of Hissa No.1 was depicted as 0H 5R. He would submit that there is a confidential communication addressed by Respondent No.6 to the SDO dated 06.02.2006 appended at page No.44 of the compilation and while drawing my attention to that communication, he would submit that the area of Hissa No.1 out of Survey No.149/2B part is required to be computed and calculated as per the NA Order which was applied for and which was challenged by Respondent No.6 as erroneous and the claim has been levied by Respondent No.6 *qua* the area held by her which stands reduced. He would submit that this aspect has not been considered while allowing Mojani Register No.332 of 2006 dated 13.05.2006 and while carrying out Mutation Entry No.582 dated 07.08.2006.

6. It is seen that being aggrieved with the above issue Respondent Nos.1 to 5 approached the TILR after delay of more than 12 years. The said Appeal to challenge the Mojani Register and Mutation Entry stood comprehensively rejected by the TILR by a detailed speaking order dated 25.11.2019, on the ground that Petitioner had purchased the subject property from Respondent No.6 and her husband by registered Sale Deed dated 19.11.2009.

7. It is further seen that in order to correct the record of the area of the various Hissa Numbers as per the sanctioned plan and NA

Order of 2000-2001, Respondent No.6 filed Application dated 19.02.2005 for conducting survey and measurement of the entire Gat Number / Survey Number and carry out subdivision of four (4) Hissa Numbers therein. It is seen that Survey Register No.2412 of 2005 is evidence of the fact that Survey was conducted and subdivision was effected on the basis of Survey on the basis of Mojani Register No. 332 of 2006 dated 13.05.2006 and Survey No.149 / 2B was subdivided on the basis of Falni Bara into Hissa Nos.1 to 4 pursuant to which Mutation Entry No.582 was certified on 07.08.2006. In this subdivision area of Hissa No.1 was certified as 0H and 0.05R.

8. The aforesaid factual situation not only weighed with the TILR for rejecting the challenge to the Mojani Register and Mutation Entry but it was also stated in the order that statement of Respondent Nos.3 and 4 were duly recorded and Form No.4 was signed by both of them at the time of carrying out survey and measurement certifying the measurement.

9. What is more significant is the fact that an affirmative finding has been returned recording that due process of law and procedure was followed by the Competent / Statutory Authorities, statement of adjacent owners of the land was duly recorded and thereafter comparing the same with the available record Mojani Register No.332 of 2006 and Mutation No.582 were certified.

10. In the above background, it is seen that despite the aforesaid factual situation Respondent Nos.1 to 5 challenged the Mojani Register and Mutation Entry before the TILR in the year 2019 which was comprehensively rejected by a detailed reasoned speaking order. The Competent Authority did not find any substance in the challenge to the Mojani Register and Mutation Entry and rejected the Appeal.

11. Respondent Nos.1 to 5 being aggrieved thereafter unsuccessfully approached the District Superintendent of Land Records (for short “DSLRL”) and Deputy Director of Land Records (for short “DDLRL”) to challenge the order passed by TILR, however both these Authorities dismissed the Appeal proceedings filed by Respondent Nos.1 to 5 by detailed speaking orders while upholding the reasoning given by the TILR. Thus three (3) Statutory Competent Authorities have passed concurrent orders on the basis of record, however all three concurrent orders having being upset by the impugned order passed by the State. Petitioner being aggrieved is therefore before this Court.

12. Mr. Kadam, learned Advocate on behalf of Petitioner would submit that once Respondent Nos.3 and 4 had participated in the survey and measurement exercise and executed Form No.4, any challenge by the same Respondents or any other Respondent claiming through them is not maintainable unless it is shown that there is a colourable exercise of power. He would submit that such is not the

case herein. He would submit that by virtue of upsetting three (3) concurrent orders, *inter alia*, upholding the certified Mojani Register No.332 of 2006 dated 13.05.2006 and Mutation Entry No.582 dated 07.08.2006 the Respondent - State has virtually decided entitlement of the Respondent Nos.1 to 5 to possess the land bearing Hissa No.1 admeasuring 0H 5R. He would submit that the only reason relied upon by Respondent Nos.1 to 5, *inter alia*, pertain to the NA order having been passed in the year 2000.

12.1. He would submit that at the behest of Respondent No.6 through which Petitioner purchased the said property, survey measurement and subdivision was carried out in 2005 - 2006. He would submit that challenge thereto in the year 2019 after a hiatus of more than 12 years on the ground of NA order passed in the year 2000 and some map annexed with the said order raises disputed questions of fact which cannot be determined in quasi-judicial proceedings. Hence, he would submit that having given no plausible explanation for upsetting the concurrent orders, the impugned order deserves to be quashed and set aside. Hence, he would urge the court to set aside the impugned order and uphold the orders passed by the statutory Authorities below.

13. Mr. Shrimangale, learned Advocate appearing for Respondent Nos.1 to 5 has however reiterated his position on behalf of

Respondent Nos.1 to 5 thereby placing reliance on the documentary material prior in point of time to the Mojani Resgister dated 13.05.2006 and Mutation Entry No.332 of 13.05.2006 and Mutation Entry No.582 of 07.08.2006 to argue that the same should be considered by the Court as has been done by the State in the impugned order. Having taken me through the compilation of various documents, he would vehemently argue that the State has correctly appreciated the factual discrepancy based on the previous Mutation Entries and NA order and therefore the impugned order deserves to be upheld.

14. Having heard both the Advocates and perusing the record it is seen that there is a clear dichotomy in respect of computation of the area of the Hissa No.1 which can be seen from the impugned orders. It is seen that disregarding the Mojani Register No.332 dated 13.05.2006 and certified Mutation Entry No.582 of 07.08.2006, the State has determined the area of Hissa No.1 to be 0H 5R and proceeded on that basis to determine the holding of Respondents Nos.1 to 5. However, what is intriguing is the fact that Respondent Nos.3 and 4 have themselves confirmed their holding and have appended their signature on Form No.4 when the exercise of survey and subdivision was effected at the behest of predecessor-in-title of the Petitioner in the year 2005-2006.

15. Thus, once the aforesaid position is confirmed there is no reason for the same to be set aside after a period of almost 25 years by the State in Revision proceedings, completely disregarding the reasons given by the Statutory Authorities in the three (3) concurrent orders. Therefore, in view of the above submissions and findings, I am in complete disagreement with the submissions made by Mr. Shrimangale, learned Advocate for Respondent Nos.1 to 5 which are in essence submissions on facts rather disputed questions of fact.

16. Once the basic facts are settled after following the due process of law, a party to the same cannot unsettle the same and seek reverse entitlement by filing quasi-judicial proceedings. All three (3) statutory authorities have correctly rejected the case of Respondent Nos.1 to 5. In that view of the matter, I agree with the reasons returned by orders passed by TILR dated 25.11.2019 and upheld by the DSLR and DDLR in Appeal and First Revision proceedings as there is no infirmity whatsoever in all the three (3) orders, whereas the impugned order passed by the State dated 15.10.2025 is clearly unsustainable because it considers material events and documents much prior in point of time to confer entitlement benefits on Respondent Nos. 1 to 5 and grant them entitlement to 5R land in place of the subdivided area of 0.05R.

17. Such confirmation of entitlement in quasi-judicial proceedings is impermissible in law especially when the due process of law has been followed to the hilt by the parties concerned with the subject land and the parties having agreed to the subdivision by executing the necessary Hissa Form No.4.

18. In view of the above observations and findings the impugned order dated 15.10.2025 is not sustainable in law and is therefore quashed and set aside. Resultantly order dated 15.11.2019 passed by TILR and Orders dated 23.10.2020 and 09.08.2023 passed by DSLR and DDLR upholding the TILR's order are all confirmed and upheld.

19. Needless to state that the aforesaid order shall not come in the way of the Respondent Nos.1 to 5 approaching the Civil Court to agitate entitlement to the area of Hissa No.1 in their favour in a Civil Suit or any proceedings available to them in law.

20. At this stage Mr. Shrimangale persuades the Court to hold in abeyance this order only for a period of 8 weeks to enable Respondent Nos.1 to 5 to approach the Civil Court and file a Civil Suit alongwith Exhibit 5 Application and procure appropriate interim relief therein regarding claim to its holding. Considering his request the present order shall be held in abeyance for a period of 8 weeks from today to enable Respondent Nos.1 to 5 to take the aforesaid step, however making it clear that if Respondent Nos.1 to 5 fail to obtain appropriate

interim relief, the present order shall come into force on expiry of the 8 week period from today. Needless to state that for all further actions taken by Respondent Nos.1 to 5, Petitioner shall be duly informed and shall be given adequate and appropriate notice thereof.

21. Writ Petition is allowed and disposed in terms of prayer clause “b” and the above directions.

[MILIND N. JADHAV, J.]

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by AJAY
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