

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5025 OF 2026

John Philip Crasto

.. Petitioner

Versus

The State of Maharashtra and Ors.

.. Respondents

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- Ms. Tamsin Monis a/w. Mr. Rakesh Pandey, Advocates i/by Right and Rights for Petitioner.
- Mrs. V.S. Nimbalkar, AGP for the State.
- Mr. Dhanajirav Dhaygude, SLR, Mumbai City present.
- Mr. Prashant Choudhary, Head Clerk present.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 23, 2026.

P.C.:

1. Heard Ms. Monis, learned Advocate for Petitioner and Mrs. Nimbalkar, learned AGP for the State.
2. Present Writ Petition challenges order dated 12.02.2026 passed by the Maharashtra Revenue Tribunal in Statutory Appeal in respect of mutation of Petitioner's name in the property card with respect to CTS No.357 situated at Bhuleshwar Division, Cawasji Hormusji Street, Mumbai.
3. Briefly stated, the facts in the present case are undisputed. Petitioner is the rightful claimant in respect of CTS No.357 situated at Bhuleshwar Division, Cawasji Hormusji Street, Mumbai. Petitioner applied for mutation of his name in the property card on the basis of

valid documentary title namely Probate to the office of Respondent No.3 – Superintendent of Land Records, Mumbai City Survey and Land Records, Old Custom House, Fort, Mumbai (for short “**SLR**”).

4. Respondent No.3, by order dated 10.05.2023 rejected his Application for mutation without appreciating the documentary evidence on record. Being aggrieved, Petitioner preferred Appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 before Respondent No.2 – Maharashtra Revenue Tribunal (for short ‘**MRT**’). MRT by its order dated 12.02.2026, partly allowed the Appeal.

5. Ms. Monis, learned Advocate for Petitioner would argue that despite the learned MRT recording affirmative findings in support of Petitioner’s case and Petitioner's entitlement, it has failed to grant final relief of mutation. She would submit that learned MRT has remanded the matter back to the Superintendent of Land Records to prolong the misery of the Petitioner despite accepting the Petitioner’s entitlement. She would submit that mutation entry in the Revenue Record follow title and is essentially made for fiscal purposes and is administrative in nature.

6. She would submit that once case of Petitioner has been accepted by learned MRT, there is no reason for the remand and fresh enquiry as determined by impugned order as there is no dispute raised.

She would submit that in the present case, Petitioner's entitlement is undisputed, despite which Petitioner would be required to undergo a fresh round of hearing and enquiry which will prolong and delay mutation.

7. She would submit that Petitioner made an Application for seeking mutation in respect of two CTS numbers simultaneously CTS Nos.357 and 358 on the basis of Probate of his deceased mother. She would submit that entitlement of Petitioner is *prima facie* clear and evident on the basis of the Probate submitted before the SLR, despite which the said Competent Authority has mutated the name of Petitioner in respect of CTS No.358 only and in so far as CTS No.357 is concerned, name is not mutated. She would submit that Petitioner is the only Executor and Beneficiary of the Will of his mother and obtained Probate of her Will and in that view of the matter, there can be no impediment for mutating his name in the Property Card in so far as CTS No.357 is concerned.

8. ***PER CONTRA***, Ms. Nimbalkar, learned AGP after taking instructions from Respondent No.3 who is present in Court would argue that despite the learned MRT accepting the case of Petitioner, Respondent No.2 will be required to issue notices to Respondent Nos.4 and 5 and call for their objections before mutation of the name of Petitioner. She would submit that once the said procedure is

completed, the name of Petitioner shall be mutated.

9. I have heard Ms. Monis, learned Advocate for Petitioner and Mrs. Nimbalkar, learned AGP for the State and with their able assistance perused the record of the case. Submissions made by them have received due consideration of the Court.

10. The facts in the present case are undisputed. The subject property in respect of which mutation is sought is situated on CTS No.357 and 358 in Bhuleshwar Division, Cawasji Hormusji Street, Mumbai.

11. There is one building standing on said land and the subject property is land along with building standing thereon. Admittedly, mother of Petitioner has 50% undivided share in the subject property (both CTS Nos.357 and 358) Similarly, the other 50% undivided share belonged to uncle of Petitioner. After death of uncle of Petitioner, his sons sold the 50% share to Prince Estate Private Limited (for short “Developer”) who is arrayed as Respondent No.4 in the present Petition. Present *lis* pertains to the other 50% undivided share belonging to mother of Petitioner. Mother of Petitioner expired. Petitioner obtained Probate of his mother’s Last Will and Testament being Executor and beneficiary therein. He applied for mutation of his name on the basis of Probate in 2021 to SLR.

12. Admittedly, subject property is undivided in so far as the shares of Petitioner's mother and the Developer are concerned. Petitioner does not dispute the share of Developer rather his undivided share. Petitioner's concern is that as per Probate of the Will of his mother, he is the beneficiary of the remaining undivided 50% share of subject land and property. Hence he applied to SLR for mutation. SLR passed order dated 10.05.2023 and allowed mutation of Petitioner's name in respect of CTS No.358 only and rejected his claim for mutation regarding CTS No.357 on the basis of his mother's Will. Order of SLR was challenged in Appeal before the MRT. Issue was framed as to whether SLR was right in rejecting the Petitioner's claim and negated the same by giving cogent reasons. Before the SLR, no objection was taken by any other legal heir or even the Developer. Even before the MRT, none of them filed any objection or even reply. Subject property is conjoint and share is undivided. Will of the mother bequeaths CTS No.358 specifically to Petitioner and in the residual clause of the same Will bequeaths all the rest of the property and estate of whatsoever nature and wheresoever situated to the Petitioner absolutely. Once this is the admitted position, the SLR cannot sit in judgment and interpret the Will according to his understanding. He has no authority whatsoever to adjudicate the Will and interpret it at all. He has to accept the same as it is. Therefore the direction to SLR by the MRT for fresh inquiry on this aspect is not a correct remand.

13. It is seen that SLR interpreted the Will / Probate to opine that at one place in the Will, CTS No.358 is bequeathed to Petitioner but nowhere in the Will CTS No.357 is stated. The MRT negated this contention and finding of SLR by holding that impugned order of SLR which rejected Petitioner's application for mutation on the ground that CTS No.357 is not mentioned in the Probate is not proper because of the Residual clause. In the present case, MRT is correct in holding that Probate is not required in view of Testatrix being Christian for the purpose of entitlement despite which Probate has been produced. The above findings are in paragraph No.11 of the impugned order. However despite the said findings, MRT has remanded the matter back to SLR to decide upon mutation application afresh keeping in mind the objection raised by Developer and brother of Petitioner.

14. It is seen from record that such finding is incorrect and contrary to what the SLR had held. In the SLR order, it was categorically held that party can obtain order from the Civil Court regarding the Will but no reasons were given. It is seen that if Developer who is concerned with the other undivided 50% share has any objection or for that matter brother of Petitioner, if he has any objection, both of them can approach the Civil Court to agitate their right and entitlement. Their remedy lies in the Civil Court. In the

Petitioner's case, it is seen that Developer has no nexus with Petitioner's entitlement or claim and similarly the brother of Petitioner has no entitlement claim in view of paragraph No.12 of the Will of Petitioner's mother. Therefore, I am of the clear opinion that quasi – judicial authorities should not sit in judgment of either the Will or Probate and attempt to decide disputed questions of fact and rather should accept the Will as it is. The SLR Mumbai has appeared before me and has informed me that he will mutate the name of Petitioner after calling for objections from the Developer and Petitioner's brother and after completing inquiry, carry out mutation. Such an inquiry is not the correct cause of action.

15. However once the aforesaid issue is determined by MRT by returning a categorical finding, the reason given in impugned order for remand and fresh enquiry cannot be sustained. The SLR who is a quasi judicial authority cannot decide question of title and the disputes raised in the present case. It is seen that on the face of record, CTS No.357 and 358 pertain to the subject property wherein undivided shares are held by Petitioner's mother (50%) and Developer (through Petitioner's brother – 50%). Therefore no objection whatsoever can be raised once Probate / Will of Petitioner's mother categorically bequeaths all her property to the Petitioner. This is gathered from a plain and simple meaning on reading the Will. The SLR has done so and understood it.

16. Hence to the aforesaid extent of directing the remand, impugned order passed by the MRT is not sustainable and it stands quashed and set aside in so far as the finding of fresh inquiry and remand is concerned. Rest of the order and findings in paragraph No.11 are sustained. Resultantly SLR is directed to carry out mutation of Petitioner's name with regard to CTS No.357 also on the basis of the Probate / Will of his mother within a period of 1 week from the date of service of a server copy of this order on his office by the Petitioner. Needless to state that if any third party including any relative of Petitioner or his brother are aggrieved with mutation of Petitioner's name, their remedy lies before the Civil Court and not before the SLR in such quasi judicial proceedings once the Probate / Will is seen. All contentions of Petitioner's relatives in Civil Court proceedings are expressly kept open otherwise. In so far as the Developer's claim is concerned, he has absolutely no right whatsoever to object to mutation of Petitioner's name in the present case, eventhough he may be the holder of the other undivided 50% share in CTS Nos.357 and 358 both. Rights of the parties before me are clearly demarcated to the extent of 50% each, save and except that the said rights are undivided in the subject property. The SLR is warned by this Court not to play in the hands of Developer in the present case. Rights of both the factions are distinct.

17. In view of the aforesaid observations and findings, Petition succeeds. Impugned order dated 12.002.2026 passed by MRT is upheld partially as stated above. The aforesaid directions be carried out by Superintendent of Land Records, Mumbai City Survey and Land Records, 1st Floor, Old Custom House, Fort, Mumbai as directed on the basis of server copy of this order downloaded from the website of the Bombay High Court. Learned Government Pleader shall ensure compliance of this order through the SLR as directed failing which this Court will have to take appropriate action.

18. Petition is allowed and disposed of in above terms.

[MILIND N. JADHAV, J.]

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