



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 412 OF 2024

1. Gulshan S/o. Late Ramesh Adwani,
Aged about 36 years, Occ. Business/
Agriculturist, R/o. Sindhi Colony,
Gondia.
2. Geeta D/o. Late Ramesh Adwani,
Aged about 35 years, Occ. Housewife,
R/o. Sindhi Colony, Gondia
3. Renu D/o. Late Ramesh Adwani
Aged about 41 years, Occ. Housewife
R/o. Sindhi Colony, Gondia.
4. Haresh S/o. Shrichand Adwani,
Aged about 55 years, Occ. Agriculturist/
Business, R/o. Sindhi Colony, Gondia.

... PETITIONERS

// VERSUS //

1. The Collector, Gondia
Tah. & Dist. Gondia
2. The Sub Divisional Officer,
Gondia, Tq. & Dist. Gondia
3. The Tahsildar,
Tahsil Office, Gondia, Tq. & Dist. Gondia.
4. The Circle Officer, Kudwa
Tq. & Dist. Gondia.
5. Secretary, Gram Panchayat
Tembhani, Tq. & Dist. Gondia.
6. District Welfare Officer,
Zilla Sainik Kalyan Office,
Mahasul Karmachari Bhavan,
Tahsil Office Compound, Bhandara

7. Irfan S/o. Nazir Shaikh,
Aged about 28 years, Occ. Private
R/o. Fulchur, Gondia,
Tq. & Dist. Gondia.

. . . RESPONDENTS

Shri A. K. Waghmare, Advocate for petitioners.
Shri S. B. Bissa, AGP for respondent nos. 1 to 4/State.
Shri Parth Malviya a/w. Shri S. P. Bodalkar, Advocate for respondent
no. 7.

CORAM :- M. W. CHANDWANI, J.

RESERVED ON :- 23.02.2026

PRONOUNCED ON :- 16.03.2026

JUDGMENT :-

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by
consent of the learned counsels for the parties.

3. The petition challenges the order dated 13.10.2023 passed
by respondent no. 1- Collector, Gondia whereby, the mutation entry
dated 17.07.2004 came to be cancelled by the impugned order after a
gap of 19 years, behind the back of the petitioners.

4. The petitioners claim that the father of petitioner nos. 1 to
3 Shri Ramesh S/o. Sundardas Adwani and one Mohammad Rafiq S/o.
Sheikh Tannumiya Qureshi have purchased the agricultural land

bearing Khasara No. 132/2, admeasuring 1.56 HR, Mouza Fulchur from the allottee- Nazir Mohammad S/o. Gaus Mohammad, who is the father of respondent no. 7 by a registered sale-deed dated 16.06.2004 before the Sub-Registrar, Gondia. Accordingly, the mutation of the land purchased by the father of petitioner nos. 1 to 3 was done on 17.07.2024.

5. Respondent no. 7, by filing an application on 13.09.2023 before respondent no.1- Collector, sought cancellation of mutation of the petitioners in respect of Gat No. 132/2, 1.56 HR on the premise that his father died on 29.12.2003 and prior to that, he was ill and used to stay at home. According to him, the alleged sale-deed could not have been executed by his father on 16.06.2004. Therefore, the sale-deed is forged and consequently, the mutation done on the basis of the said sale-deed is required to be cancelled.

6. The Collector, Gondia called for a detailed report from his subordinates, including the Circle Officer of Kudwa Area, Gondia. The Circle Officer prepared a report without verifying the death certificate filed by respondent no. 7 and without issuing notice to the petitioners, behind their back, opined that the said sale-deed has been executed after the death of Nazir Mohd. S/o. Gaus Mohd. Sheikh, the father of respondent no.7. Considering the report of the Circle Officer of Kudwa

Area, Gondia, the Collector, Gondia without issuing a notice to the petitioners, cancelled the mutation entry of the year 2004 in the name of the petitioners which was based on strength of the said sale-deed.

7. Heard the learned counsel for the petitioners as well as the learned AGP for the State and the learned counsel for the contesting party i.e. respondent no. 7.

8. Perusal of the record does not reveal anywhere that the petitioners have been served with a notice. Even respondent no. 4- Circle Officer who was directed to conduct a detailed enquiry has not issued any notice to the petitioners. Without verifying the death certificate, she has opined that the sale-deed is executed after the death of Nazir Mohd. S/o. Gaus Mohd. Sheikh. After receiving instructions from the Collector, Gondia to conduct a detailed enquiry, it was incumbent on the part of respondent no. 4- Circle Officer to verify the fact whether the father of the respondent no. 7 died on 29.12.2003. Rather, respondent no. 4 has herself mentioned in the report that she did not verify the death certificate and despite that, she dared to opine that the sale-deed has been executed after the death of Nazir Mohd. S/o. Gaus Mohd. Sheikh, the father of respondent no. 7. Such drastic observations have been made by the Circle Officer behind the back of the petitioners and that too, without verifying the death

certificate, which is a serious blunder. The Circle Officer is supposed to know the consequences of such observations. The observations made in the order show that due care has not been taken by the Circle Officer, which implies that either she is incompetent or has given the report based on extraneous reasons. Relying on her report, the Collector, Gondia passed the impugned order without hearing the petitioners.

9. That apart, having found that the sale-deed has been registered, the Collector, Gondia should not have cancelled the mutation entry based on a registered document so casually without having all the evidence and without offering an opportunity of being heard to the petitioners. Rather, the proper course for respondent no. 7 would have been to file a Civil Suit for adjudication of his grievance with a prayer either for cancellation of sale-deed and/or a declaration that the same is not binding on him.

10. This is very a sorry state of affairs in the administration of the District Authorities. What is even more unfortunate is that this is not a solitary incident. Looking at the nature of cases being filed before the High Court, it has been observed time and again that the Circle Officers, who are supposed to verify the mutation entry do not discharge their duties properly and keep the matter pending for a

considerable period which leads to miscarriage of justice. Therefore, the case in hand shall be dealt with heavy hands. The conduct of the Circle Officer is subversive of discipline and may entail for Departmental Enquiry, including suspension.

11. However, it will be appropriate that before recommending such a drastic action against the Circle Officer, a reasonable opportunity of being heard be given to the said Circle Officer of Kudwa Area of Gondia to show cause as to why a Departmental Enquiry, which may include suspension pending enquiry, should not be recommended against her.

12. Since, the petitioners have not been heard and the impugned order has been passed behind their back without following the principles of natural justice, the order does not sustain in the eyes of law. Accordingly, the impugned order dated 13.10.2023 passed by respondent no. 1- Collector, Gondia is hereby quashed and set aside. The matter is remanded back to the Collector, Gondia for deciding it afresh, after giving a reasonable opportunity of being heard to the petitioners.

13. The Writ Petition is allowed in the above-said terms. Rule is made absolute accordingly.

(M. W. CHANDWANI, J.)

14. While dictating the judgment, a direction was given to the learned AGP to inform respondent no. 4 to remain present personally in Court at the time of pronouncement of judgment on 16.03.2026. The learned AGP informs that he has passed on the message to respondent no. 4 via SMS and Whatsapp. Apart from this, intimation was given to the concerned Tahsildar, Law Officer and the Collector, Gondia, who have also informed the learned AGP that the message was communicated to respondent no. 4. However, she has chosen not remain present in Court.

15. Additionally, a notice was also issued to respondent no. 4 to remain personally present in Court on 16.03.2026. However, the record shows the extent of her audacity that she did not respond to the messages of the learned AGP and even refused to receive the notice issued by the High Court. This is nothing but undermining the authority of this Court. In this contingency, it would have been more appropriate to issue Non-Bailable Warrant against respondent no. 4, however, considering the fact that she is a lady, in the first instance, it will be appropriate to issue a Bailable Warrant against her.

16. Hence, issue Bailable Warrant in the sum of Rs.50,000/- against Ms. H. M. Borkar, Mandal Officer, Kudwa, Gondia, returnable on 30.03.2026.

17. List the matter on 30.03.2026 for reporting compliance and for further orders.

(M. W. CHANDWANI, J.)

RR Jaiswal