



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

WRIT PETITION NO.2296 OF 2025

VIKAS S/O PRALHAD RATHOD

VERSUS

STATE OF MAHARASHTRA, THR. SECRETARY, DEPT. OF REVENUE,
MUMBAI AND OTHERS

<i>Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders</i>	<i>Court's or Judge's orders</i>
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Mr. S.S. Dhengale, Advocate for Petitioner.
Mr. H.R. Dhumale, AGP for Respondent Nos.1 & 2-State.
Mr. S.U. Bhoyar, Advocate for Respondent Nos.3 to 8.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 10th FEBRUARY 2026

PER COURT :-

1. Heard learned Counsel for the petitioner as well as learned Counsel for respondents Nos.3 to 8.

2. The petitioner's challenge is to the order dated 13.07.2023, passed by respondent No.2 Naib Tahsildar, Deulgaon Raja, Dist. Buldhana, thereby issuing directions for correction of the mutation entries with respect to the several lands including land bearing Gat No.954, situated at Mouje Andhera Part-2, Tq. Deulgaon Raja, Dist. Buldhana.

3. The limited controversy involved in the instant petition is the sustainability of the impugned order, which is passed against the dead person. Mr. Pralhad Laxman Rathod was the owner of part of land from Gat No.954 to the extent of 0.70 H.R. In the proceedings initiated before respondent No.2, final order is passed against him, which is impugned herein. By virtue of the impugned order, it is directed that the entry with respect to the ownership of Mr. Pralhad Rathod, over 0.70 H.R. land be corrected as 0.15 H.R., thereby reducing the land which was originally belonging to the said person. It is pointed out that, undisputedly, Mr. Pralhad Rathod has expired on 22.01.2019 and the fact of his death was not brought on record before the Naib Tahsildar by the appellants (respondent Nos.3 to 8 herein). The impugned order records that the notice was issued to Mr. Pralhad Rathod and despite service, nobody appeared on his behalf and therefore, the impugned order is passed. The petitioner, being one of the legal heir of Mr. Pralhad Rathod, has assailed the order and pointed out that the land belonging to them is now reduced to 0.15 H.R.

4. Learned Counsel for respondent Nos.3 to 8 opposes the petition on the ground of alternate remedy being available by way of appeal before the Sub Divisional Officer and also submits that the mutation entry based on the earlier order is already effected.

5. In response to the objection about maintainability of the petition on account of alternate remedy, learned Counsel for the petitioner relies on judgment of the Hon'ble Supreme Court in the case of *Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Others, [AIR 1999 SC 22]* and submits that the instant petition challenging the order passed by the Naib Tahsildar is maintainable since the impugned order is grossly illegal and is a nullity being passed against the dead person. There is no dispute to the fact that Mr. Pralhad Laxman Rathod has expired in the year 2019 and the proceedings are decided in the year 2023. The impugned order is thus nullity. As such, there is no need to relegate the parties to avail alternate remedy.

6. Having regard to the limited controversy that the impugned order is passed against Mr. Pralhad Rathod, who had expired in the year 2019 itself, interest of justice demands that the matter be remitted to the Naib Tahsildar, for fresh consideration, particularly because the impugned order has adverse civil consequences against the legal heirs of Mr. Pralhad Rathod, as their land is reduced from 0.70 H.R. to 0.15 H.R. Therefore, considering the overall factual and legal aspects, the impugned order deserves to be quashed and set-aside. Hence, following order is passed.

ORDER

- I) The order dated 13.07.2023 passed by respondent No.2 Naib Tahsildar, Deulgaon Raja, Dist. Buldhana, is quashed and set-aside.
- II) The matter is remitted to respondent No.2 Naib Tahsildar, for fresh consideration after giving an opportunity of hearing to all the concerned parties, including the legal representatives of Mr. Pralhad Laxman Rathod.
- III) The petitioner is directed to submit the details of all the legal representatives of Mr. Pralhad Laxman Rathod, before respondent No.2 Naib Tahsildar, after causing appearance before the concerned authority.
- IV) Parties are directed to appear before respondent No.2 Naib Tahsildar on 18th February 2026 and invite its attention to this order.
- V) In view of this, the writ petition is disposed of.
- VI) No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)