



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1365 OF 2012**

Meena A. Rizvi]
the Sole Proprietress]
M/s. Meena Constructions having address]
at Rizvi House, 1st Floor, Hill Road,]
Bandra (W), Mumbai - 400050]...Petitioner

Versus

1. The State of Maharashtra]
through the Principal Secretary]
to the Revenue Department]
having office at Mantralaya]
Nariman Point, Mumbai- 400020]
2. The Deputy Director of Land Records]
Konkan Division, New Administrative]
Bldg., Bandra [E], Mumbai- 400051]
3. The Superintendent of Land Records]
Mumbai Suburban District, 10th Floor,]
New Administrative Bldg., Bandra (E),]
Mumbai- 400051]
4. The City Survey Officer, Bandra]
Municipal Motor Garage Compound,]
Opp. BEST Depot, S.V. Road,]
Santacruz (W), Mumbai- 400054]
5. Bendict Soares, Adult of Mumbai]
Inhabitant residing at Lily's Cottage]
106 D Hill Road, Bandra (W),]
Mumbai- 400050]...Respondents

Mr. Drupad Patil for Petitioner
Ms. Gauri Sawant, AGP for Respondent No. 1 to 4
Mr. Mayur Khandeparkar for Respondent No. 5

**CORAM : KAMAL KHATA, J.
RESERVED ON : 14TH JANUARY 2026
PRONOUNCED ON: 4TH FEBRUARY 2026.**

JUDGMENT:

1) Rule. Rule made returnable forthwith, by Consent of the parties.

2) By the present Petition under Article 226 of the Constitution of India, the Petitioner challenges the legality, validity and correctness of the orders dated 14th May 2009 passed by Respondent No.3 – Superintendent of Land Records, 29th March 2010 passed by Respondent No.2 – Deputy Director of Land Records, and 30th November 2011 (“*the impugned order*”) passed by Respondent No.1 – State of Maharashtra, (collectively referred to as the “impugned orders”). By the said orders, the mutation entry effected in the Property Register Card in respect of land bearing Survey No.236, Hissa No.2, CTS No. B/1061, admeasuring about 1067.7 square metres, situate at Hill Road, Bandra (West), Mumbai- 400 050 (“*the subject property*”), in favour of the Petitioner came to be deleted, and the Petitioner’s application for mutation of her name as owner was finally rejected by the Respondent No.1, despite the Petitioner’s claim of title founded on a Consent Decree passed by this Court.

FACTUAL BACKDROP

3) One Mr. John Alexander Dias was the original owner of several immovable properties, including the subject property. Upon his demise on 20th January 1966, the subject property

devolved upon his widow, Mrs. Lidwina Mary Dias, who, according to the Petitioner, became the absolute owner thereof.

4) Mrs. Lidwina Mary Dias expired on 12th September 1966, leaving behind her two sisters and one brother, namely Mrs. Mona Oliver, Mrs. Collette Oliver and Mr. George Oliver, who, according to the Petitioner, succeeded to the subject property as her legal heirs and legatees under a Will executed by Mrs. Lidwina Mary Dias.

5) Mrs. Collette Oliver applied for Letters of Administration in respect of Wills of John and Lidwina vide Petitions Nos.394 and 395 of 1970 before this Court. However, due to default, Petition No.395 of 1970 came to be dismissed.

6) On 17th November 1979, the Petitioner entered into an Agreement for Sale with the said Mrs. Mona Oliver, Mrs. Collette Oliver and Mr. George Oliver, whereby the subject property was agreed to be sold to the Petitioner for a total consideration of ₹1,70,000/-. The Petitioner states that pursuant thereto, a part consideration of Rs.17,000/- was paid, with the balance being payable upon execution of the Deed of Conveyance.

7) As the vendors had failed to perform their obligations under the Agreement for Sale, the Petitioner instituted a Suit No.2465 of 1985 before this Court seeking specific performance of the Agreement for Sale dated 17th November 1979.

8) During the pendency of the said Suit, the disputes

between the Petitioner and the vendors were amicably resolved and Consent Terms dated 5th November 1985 were executed. Pursuant thereto, a Consent Decree was passed by this Court directing conveyance of the subject property in favour of the Petitioner.

9) The Petitioner states that although the Consent Decree was passed in the year 1985, it was lodged for registration only on 14th December 1986. However, the issue of payment of stamp duty in respect of the Consent Decree remained pending and was finally resolved in July 2007, whereafter the Consent Decree came to be registered- nearly 22 years after it was passed.

10) Upon registration of the Consent Decree, the Petitioner made an application dated 18th August 2007 to Respondent No.4 under the provisions of the Maharashtra Land Revenue Code, 1966, seeking mutation of her name in the Property Register Card of the subject property on the basis of the said Consent Decree.

11) Respondent No.5, claiming to be a lessee in respect of a portion of the subject property and alleging long-standing occupation thereof by his family, filed objections to the proposed mutation. Respondent No.5 contended, inter alia, that prohibitory and restraint orders dated 17th November 1973 and 24th June 1974 passed by the Collector of Bombay, restraining transfer or creation of any charge in respect of the subject property, were still

subsisting; that the Petitioner's vendors had no authority to convey title; and that no probate or letters of administration had been obtained in respect of the Wills relied upon by the Petitioner.

12) Notwithstanding the said objections, Respondent No.4, by an order dated 7th March 2008, rejected the objections raised by Respondent No.5 and allowed the Petitioner's application for mutation, pursuant to which the Petitioner's name came to be entered in the Property Register Card of the subject property.

13) Aggrieved by the said order of mutation, Respondent No.5 preferred an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 before Respondent No.3.

14) By an order dated 14th May 2009, Respondent No.3 allowed the Appeal filed by Respondent No.5, set aside the mutation entry made in favour of the Petitioner, and held that in the absence of probate or Letters of Administration in respect of the said Wills forming basis of the Petitioner's title, the Petitioner was not entitled to have her name mutated in the Property Register Card.

15) The Petitioner thereafter preferred an Appeal before Respondent No.2, challenging the order dated 14th May 2009. However, by an order dated 29th March 2010, Respondent No.2 dismissed the Appeal and affirmed the findings recorded by Respondent No.3.

16) Still aggrieved, the Petitioner invoked the revisional jurisdiction of Respondent No.1, contending that the revenue authorities had exceeded their jurisdiction, failed to give due effect to the binding Consent Decree passed by this Court, and impermissibly adjudicated issues relating to title.

17) By an order dated 30th November 2011, Respondent No.1 dismissed the revision application and confirmed the concurrent orders passed by Respondent Nos.2 and 3, thereby deleting the mutation entry standing in the name of the Petitioner.

18) The Petitioner claims that the impugned orders suffer from patent illegality, are contrary to settled principles governing mutation proceedings, and constitute an impermissible adjudication of title by revenue authorities, resulting in grave prejudice to the Petitioner. Hence, the present Petition challenging the impugned order.

RIVAL SUBMISSIONS

19) Mr. Drupad Patil, learned Advocate for the Petitioner, assailed the impugned orders by submitting that the revenue authorities have acted wholly without jurisdiction in deleting the mutation entry standing in favour of the Petitioner, despite the fact that the Petitioner derives title under a duly registered Consent Decree passed by this Court.

20) Learned counsel submitted that Respondent No.5 had no

locus whatsoever to challenge Mutation Entry No.2248. It was pointed out that Respondent No.5 failed to produce any lease deed or documentary material evidencing a legally subsisting right, title or interest in the subject property. Mere possession or a bald assertion of tenancy, unsupported by proof, could not clothe Respondent No.5 with the status of a “person interested” so as to maintain an Appeal under Section 247 of the Maharashtra Land Revenue Code, 1966.

21) It was further submitted that once the Consent Decree dated 5th November 1985 was registered in July 2007, the mandate of Sections 149 and 150 of the Maharashtra Land Revenue Code, 1966 stood attracted, rendering it obligatory upon the revenue authorities to record the Petitioner’s name in the Property Register Card. The refusal to do so, despite a registered Decree passed by a competent civil Court, was ex facie illegal, arbitrary and unsustainable in law.

22) Learned counsel emphasized that the Consent Decree has attained finality, has never been challenged by any party, and binds not only the parties thereto but also all authorities subordinate to this Court. The revenue authorities, therefore, could not sit in appeal over a judicial Decree by questioning the Petitioner’s title or the competence of the vendors to convey the subject property.

23) It was contended that the findings recorded by Respondent Nos.2 and 3, requiring the Petitioner to once again approach the civil court, are wholly perverse. The Civil Court had already adjudicated the matter and passed a Consent Decree, and no further adjudication of title was either permissible or warranted.

24) Learned counsel further submitted that the title of Mrs. Lidwina Mary Dias was never in dispute and was not questioned by Respondent No.5 at any stage. Upon her demise, succession opened in favour of her sisters and brother, namely Mrs. Mona Oliver, Mrs. Collette Oliver and Mr. George Oliver, who were the only surviving heirs. In the absence of rival claimants to the estate of Mrs. Lidwina Mary Dias, the revenue authorities clearly acted beyond their jurisdiction in casting doubts on succession and title.

25) In support of these submissions, learned counsel placed reliance upon judgments of this Court in *Shrikant R. Sankanwar & Ors. Vs Krishna Balu Naukudkar¹ & Ramesh Shantilal Modi & Anr. Vs State of Maharashtra²*, and submitted that mutation proceedings are fiscal and administrative in nature and neither confer or extinguish title. It was urged that revenue authorities are bound to give effect to a registered Decree and cannot embark upon an adjudication of title, unless such Decree is set aside by a

¹ 2003 Sec Online Bom 46

² 2018 Sec Online Bom 1330

competent Court.

26) On these grounds, it was submitted that the impugned orders deserve to be quashed and set aside, and the mutation entry in favour of the Petitioner be restored.

27) *Per contra*, the learned AGP appearing for Respondent Nos.1 to 4 submitted that the impugned orders do not warrant interference under Article 226 of the Constitution of India, as the revenue authorities have acted strictly in accordance with the statutory scheme governing mutation and maintenance of revenue records.

28) The learned AGP submitted that late John Alexander Dias had executed a Will during his lifetime bequeathing the subject property exclusively in favour of his wife, Mrs. Lidwina Mary Dias. Upon the death of Mr. John Vincent Dias on 20th January 1966, testamentary succession opened, however, in the absence of a grant of probate or letters of administration, the estate did not vest in Mrs. Lidwina Mary Dias.

29) It was submitted that Mrs. Lidwina Mary Dias herself expired on 6th September 1967 during the pendency of testamentary proceedings relating to the estate of Mr. John Vincent Dias. Consequently, at no point of time did Mrs. Lidwina Mary Dias acquire representative title or legal authority in law to deal with, alienate or otherwise dispose of the estate of Mr. John

Vincent Dias.

30) The learned AGP submitted that prior to her demise, Lidwina Mary Dias executed a Will purporting to bequeath the property to her sister and brother. However, such testamentary disposition was legally ineffective, as a legatee cannot bequeath property which has not vested in her in law. In the absence of probate or letters of administration, the estate never devolved upon her absolutely.

31) It was submitted that testamentary proceedings bearing Testamentary Petition Nos. 394 and 395 of 1970 seeking Letters of Administration with Will annexed in respect of the estates of Mr. John Vincent Dias and Mrs. Lidwina Mary Dias remained pending and were never culminated in any grant. In such circumstances, none of the persons claiming under the alleged Wills, including Mrs. Mona Oliver, Mrs. Collette Oliver and Mr. George Oliver, acquired any authority to deal with or alienate the subject property.

32) Despite the absence of representative title, the said persons entered into an Agreement for Sale dated 17th November 1979 with the Petitioner. The learned AGP emphasized that the Agreement itself expressly records that prior permission of the competent Court was required before any transfer could take effect, which, is a clear acknowledgment of lack of authority and

absence of marketable title. Admittedly, no such permission was ever obtained.

33) The learned AGP submitted that the Consent Terms dated 5th November 1985 and the Consent Decree passed in Suit No.2465 of 1985 were founded entirely on the said Agreement for Sale. Since the Agreement itself was void and unenforceable for want of authority and representative title, the Consent Decree arising therefrom was vitiated at its very root and incapable of conferring any legal right, title or interest.

34) It was further submitted that under the Indian Succession Act, only an executor or administrator appointed by a competent Court can represent the estate of a deceased person. In the absence of such appointment, any agreement or conveyance executed by heirs or legatees is void in law and cannot be validated even by Consent of parties.

35) The learned AGP specifically addressed the Petitioner's reliance on the 2002 amendment to the Indian Succession Act dispensing with the requirement of probate for Christians, and submitted that the amendment does not operate retrospectively so as to validate agreements and Decrees executed decades earlier when testamentary proceedings were admittedly pending.

36) The learned AGP further submitted that the Consent Decree bears the seal of the Civil Court dated 14th February 1986

and became executable and registrable from that date. Under the Registration Act, 1908, limitation for registration commenced from the date of execution of the Decree, and there is no provision in law for postponement or suspension of limitation.

37) It was submitted that although the Decree was lodged for registration in the year 1986, it was not registered within the statutory period. The registration ultimately effected in July 2007, after a lapse of more than 21 years, was ex facie illegal and beyond the jurisdiction of the registering authority.

38) The learned AGP contended that adjudication of stamp duty under the Maharashtra Stamp Act does not arrest limitation under the Registration Act, nor does it revive a document which has already become time-barred. Payment of stamp duty, even pursuant to adjudication, cannot validate an instrument that has become incapable of registration by operation of law.

39) It was further submitted that the Consent Decree also suffered from serious infirmities under the Stamp Act, as stamp duty was neither paid nor registration completed within the mandatory statutory framework applicable as on 14th February 1986.

40) The learned AGP submitted that when the revenue authorities noticed that the mutation was sought to be effected on the basis of a document which was void, unenforceable, improperly

stamped and illegally registered, they were duty-bound to refuse mutation. Such refusal, it was contended, does not amount to adjudication of title but is a legitimate administrative act to prevent perpetuation of illegality in public records.

41) The learned AGP submitted that the concurrent findings recorded by Respondent Nos.1 to 3 are based on statutory provisions, settled legal principles and material on record, and do not suffer from perversity or jurisdictional error warranting interference under Article 226.

42) On these grounds, the learned AGP urged that the Writ Petition be dismissed and the impugned orders be upheld.

43) Mr. Khandeparkar, learned Advocate appearing for Respondent No.5, submitted at the outset that Section 150(2) of the Maharashtra Land Revenue Code, 1966 read with Rules 14 and 24 of the Maharashtra Land Revenue Record of Rights and Registers (Preparation and Maintenance) Rules, 1971 mandates issuance of notice to all persons interested in the land before certifying any mutation entry. The expression “person interested” is of wide amplitude and is not confined to absolute owners alone. He supplements the aforesaid submission by relying upon the judgment of this Court in *Ramchandra vs SDO, Chandrapur*³.

44) Relying upon the judgment in *Dossibai Nanabhoy*

³ 2008 SCC Online Bom 809

*Jeejeebhoy v. P.M. Bharucha*⁴, learned counsel submitted that a person need not have perfected title to qualify as a “person interested”. Any person having a subsisting right to remain in occupation, or whose civil rights are likely to be affected by alteration of revenue records, squarely falls within the ambit of that expression.

45) It was submitted that Respondent No.5 is a lessee in respect of the subject property, which is evident from the Letter dated 15th November 1955 and the Intimation of Disapproval dated 16th July 1957 issued by the Municipal Corporation of Greater Bombay, and that his status as lessee is also reflected in the Property Register Card. Consequently, Respondent No.5’s rights stood directly affected by the proposed mutation in favour of the Petitioner.

46) Learned counsel contended that the submission of the Petitioner that Respondent No.5 lacked locus is legally untenable, as mutation proceedings are not *inter se* disputes between rival owners alone, but are statutory proceedings intended to maintain accurate and lawful revenue records after giving notice to all affected persons.

47) On merits, Mr. Khandeparkar submitted that the mutation claimed by the Petitioner was fundamentally unsustainable, as the Petitioner’s alleged title itself was under a serious cloud. He

⁴ 1958 SCC Online Bom 90

submitted that the Petitioner traces her claim through Mrs. Mona Oliver, Mrs. Collette Oliver and Mr. George Oliver, who purportedly derived title from late Mrs. Lidwina Mary Dias under a Will dated 12th May 1966.

48) Learned counsel pointed out that no probate or Letters of Administration in respect of the said will have ever been granted. Testamentary Petition No.395 of 1970 filed for letters of administration was dismissed by an order dated 24th October 1975 due to discrepancies, and though a restoration application was filed in 1979, no final orders were ever passed. Consequently, the alleged testamentary title never crystallized in law.

49) Relying upon the decision of the Supreme Court in *Jitendra Singh v. State of Madhya Pradesh*⁵, learned counsel submitted that where mutation is sought on the basis of a Will, and the Will itself is disputed or unproved, revenue authorities are duty-bound to refuse mutation and direct the claimant to first establish rights before a competent civil Court.

50) Mr. Khandeparkar further invited attention to the prohibitory orders dated 17th November 1973 and 24th June 1974 passed by the Collector of Bombay under Section 46(2) of the Income Tax Act, 1922 read with Order XXI Rule 54 of the Code of Civil Procedure, restraining transfer or creation of any charge in respect of the subject property on account of arrears of estate duty.

⁵ 2021 SCC Online SC 802

51) Learned counsel submitted that these prohibitory orders were duly reflected in the Property Register Card by mutation entries made on 14th February 1974 and 22nd July 1974, and that admittedly, these orders have never been challenged, set aside, vacated or lifted till date.

52) Relying upon the judgment in *Keshrimal Jivji Shah v. State of Maharashtra*⁶, learned Counsel submitted that any transfer effected in violation of a subsisting prohibitory or attachment order passed by a competent authority is void, illegal and incapable of conferring any right, title or interest. He contended that in the present case, prohibitory orders dated 17th November 1973 and 24th June 1974 restraining transfer or creation of any charge in respect of the subject property were admittedly in force and duly reflected in the Property Register Card. Despite the said restraint, the Agreement for Sale dated 17th November 1979, the Consent Terms dated 5th November 1985 and the Consent Decree founded thereon were brought into existence. He contended that such transactions, being in the teeth of statutory prohibitions, are non est in law and cannot be recognised by revenue authorities for the purpose of mutation, and that the impugned orders refusing to act upon such documents are therefore legally justified and call for no interference under Article 226 of the Constitution of India

⁶ 2004 SCC Online Bom 368

53) In this regard, learned counsel relied upon *State of Punjab v. Amar Singh*⁷, to submit that parties cannot, by private arrangement or compromise Decree, confer upon themselves rights which they were otherwise legally prohibited from creating, nor can such Decrees bind statutory or revenue authorities to act contrary to law.

54) Mr. Khandeparkar further submitted that the extraordinary delay of nearly twenty-two years in securing registration of the Consent Decree, coupled with suppression of material facts relating to prohibitory orders and pending testamentary proceedings, disentitles the Petitioner to any discretionary relief under Article 226 of the Constitution of India.

55) Learned counsel placed reliance upon the decision of this Court in *Sushanku Builders Limited v. Apex Grievance Redressal Committee*⁸, to contend that where concurrent findings of fact are recorded by multiple statutory authorities, and no perversity or jurisdictional error is demonstrated, this Court ought not to interfere in exercise of its extraordinary writ jurisdiction.

56) In conclusion, Mr. Khandeparkar submitted that the Petition is an attempt to bypass mandatory civil remedies, to legitimize an otherwise defective title through mutation proceedings, and to erase the lawful rights of Respondent No.5

⁷ (1974) 2 SCC 70

⁸ 2025 SCC Online Bom 727

without due process. Reliance was also placed on *Ajay Singh v. Khacheru*⁹ to submit that writ jurisdiction is discretionary and is not intended to correct every alleged error. Where the authority has acted within jurisdiction and followed settled law, the Court should refrain from substituting its own view.

57) On these grounds, learned counsel urged that the Petition deserves to be dismissed with costs.

ANALYSIS AND FINDINGS

58) I have given anxious consideration to the rival submissions advanced on behalf of the Petitioner, Respondent Nos.1 to 4 and Respondent No.5, and have carefully perused the material placed on record as well as the impugned orders passed by the revenue authorities. The central issue which arises for consideration is whether the revenue authorities were justified in deleting the mutation entry made in favour of the Petitioner, notwithstanding the existence of a registered Consent Decree passed by this Court.

59) At the outset, the legal position that mutation entries in revenue records are maintained primarily for fiscal and administrative purposes is well settled. The position of law governing the scope and ambit of powers of revenue officers under Sections 149 and 150 of the Maharashtra Land Revenue Code,

⁹ (2025) 3 SCC 266

1966 is no longer *res integra* and stands conclusively settled by this Court in *Shrikant R. Sankanwar v. Krishna Balu Naukudkar* (*supra*). This Court in the case of *Shrikant R. Sankanwar* held as under:

“9. Bare reading of sections 149 and 150 of the said Code and the said Rules would therefore disclose that the powers which are to be exercised by the Revenue Officers in relation to the mutation of entries in the revenue records pertaining to the immovable properties in the villages are for the purpose of updating such revenue records in respect of rights acquired by the parties in different modes specified under the said section 149. Such right might have been acquired by way of any document executed by the parties and duly registered or on account of pronouncement of decision by the Courts or authorities competent to deal with the matters pertaining to the rights and interests of the parties in relation to the immovable properties. Neither section 149 nor section 150 empowers the revenue authorities acting thereunder and according to the procedure prescribed under the said Rules to adjudicate upon the rights of the parties or their title to the immovable properties. The said provisions of law only deal with the revenue records being updated in relation to the immovable properties for the purpose of assessment of revenue and collection thereof.

11. Undoubtedly in case of difficulty in ascertaining the right of the parties based on the document produced or on account of failure to produce documents, the revenue officers acting under section 150 of the said Code can certainly decide about the issue of possession of the property and modify the entries accordingly in the register of mutations. However, in cases where the person discloses the title better than the other, from the documents produced by him, certainly such person will have edge over the other in relation to the decision pertaining to the possession of property. Every such decision would be also final subject to the adjudication about the same by the civil court. Nevertheless, while considering the issue of actual possession, the revenue authorities under section 150 of the said Code cannot decide about title to the property or other right to the property of the parties to such dispute. In fact, Rule 17 of the said Rules deals with and clearly speak of certification of entries in the register of mutation and deciding

disputes relating to the mutation in the entries, and not of decision relating to the rights of the parties in or to the properties. It further speaks of fixing the matter for hearing consequent to the objections raised to the entries, in order to decide the dispute for the purpose of certifying the entries and not to decide the rights of parties to the properties. Only other issue which can be dealt with by the revenue authorities under the said provisions of law is the issue of actual possession of the properties. In that respect also, the Revenue Officer acting under sections 149 and 150 of the said Code while deciding the issue of possession has to give due credence to the documentary evidence and the person having documentary proof of title to the property either in the form of valid and lawful registered deed or a Decree of the court, then such person shall be held to be in actual possession. This conclusion is inevitable in view of the provisions of law contained in part D of the said rules and particularly Rule 17 thereof which provides that "The certifying officer shall then hold a summary enquiry and decide each dispute entered in the register of disputed cases on the basis of possession" and further "if a person actually holds properties under a claim of title, he shall be recorded as occupant" and then that "if there is a doubt as to the actual possession, the persons with the strongest title shall be so recorded."

10. The sub-section (3) of section 150 of the said Code clearly speaks of "any objection to any entry made under sub-section (1) in the register of mutations." Sub-section (6) thereof deals with the powers of the revenue authorities to test "Entries in the register of mutations" and "if found correct or after correction" the same to "be certified in such manner as may be prescribed". Thus, the objections which are to be entertained and to be dealt with under section 150 of the said Code by such Revenue officers are in relation to the entries proposed to be made pursuant to acquisition of rights by the parties intimated under the report made by the parties or by the registering authorities to the Talathi and not in relation to the right itself of the parties in or to the immovable properties. The enquiry pursuant to such reports to the Revenue Officers, has to be restricted to the matters pertaining to the mutation of the entries in the revenue records. Such enquiry cannot travel beyond the power given to the authorities under the said provision of law. Such power being restricted to ascertain the veracity of the proposed entry, based on the document produced by the parties, the authorities cannot adjudicate upon the rights acquired by the

parties to such properties in respect of which the mutation of entry is requested for. In other words the Authorities in such enquiry will have to ascertain as to whether documents produced before such authorities apparently disclose acquisition of right in favour of the applicant in a manner and of the nature claimed by him or her and not whether the applicant is in fact entitled to claim such right in or to the property. The power to adjudicate regarding such issue pertaining to right of the parties to the immovable properties vests in the Courts and the Authorities duly empowered to enquire and adjudicate about the same and not with the revenue officers acting under sections 149 and 150 of the Code and the provisions of the said Rules. In brief, therefore, the enquiry contemplated under section 150 in relation to application for mutation of entries is to ascertain whether the document produced reveal acquisition of right stated to have been acquired in the land in respect of which mutation of entry is sought for, and does not empower such Authorities to adjudicate upon the title and rights of the parties to the immovable properties. In fact the entire proceedings prescribed under sections 149 and 150 of the said Code and the procedure prescribed for the same under the said Rules relate to the dispute pertaining to the mutation and certification of entries in the register depending upon the documents which are produced by the parties and not to decide about the rights of the parties to such properties.

13. It is well settled law that the entries in the revenue records are basically for revenue purposes and do not by themselves constitute title to the property in favour of any person. Such entries can, undoubtedly, be corroborative piece of evidence to establish the certain rights of the parties in relation to property but they themselves cannot create any title in favour of any person in relation to any immovable property."

(Emphasis Supplied)

The ratio laid down in the case of *Shrikant* (supra) has been duly followed by the Division Bench of this Court in *Sidram Ramdas Darnulwar Vs State of Maharashtra and Others*¹⁰.

60) It is equally settled that revenue authorities functioning under the Maharashtra Land Revenue Code, 1966 are not vested

¹⁰ 2025 SCC Online Bom 982

with jurisdiction to adjudicate questions of title, validity of conveyances, testamentary succession or enforceability of civil Court Decrees. Any such adjudication lies exclusively within the domain of competent civil Courts. This Court, while reiterating the ratio laid down in *Srikhant (supra)* in its judgment in *Ramesh Shantilal Modi v. State of Maharashtra (supra)* has held as under:

*“27. This Court in the case of Shrikant R. Sankanwar v. Krishna Balu Naukudkar (supra) has held that objections which are to be entertained and to be dealt with under section 150 of the Maharashtra Land Revenue Code by the revenue officers are in relation to the entries proposed to be made pursuant to the acquisition of rights by parties and not in relation to the right itself of the parties in or to immovable properties. The enquiry pursuant to such reports of acquisition of rights to the revenue officers has to be restricted to the matters pertaining to the mutation of the entries. Such enquiry cannot travel beyond the power given to the authorities under the said provision of law. **Such power being restricted to ascertain the veracity of proposed entry, based on document produced by the parties cannot adjudicate upon the rights acquired by the parties to such properties in respect of which the mutation of entry is requested for. Such power to adjudicate right of parties to immovable properties vests in Courts and duly empowered authorities and not with the revenue officers acting under sections 149 and 150 of the Maharashtra Land Revenue Code and Rules.***

*28. The Supreme Court in the case of Shanti Budhiya Vesta Patel v. Nirmala Jayprakash Tiwari (supra) has held that a registered document under section 74 of the Evidence Act, 1872 has a lot of sanctity attached to it and this sanctity cannot be allowed to be lost without following the proper procedure. **In my view, the revenue authority is not empowered to directly or indirectly set aside the registered documents. The development agreement as well as the two power of attorneys which were duly registered had not been set aside by the competent Court till date. The respective suits filed by the parties in respect of the suit land are still pending.”***

(Emphasis added)

61) In the present case, it is not in dispute that the Petitioner claims mutation on the basis of a Consent Decree dated 5th November 1985 passed by this Court, which Decree came to be registered in July 2007. It is also not in dispute that the said Consent Decree has not been challenged or set aside by any competent Court and continues to subsist as on date.

62) Once a Decree of a civil Court attains finality and is registered in accordance with law, the revenue authorities are duty bound to take cognizance of it for the limited purpose of mutation. They cannot sit in appeal over such Decree, re-examine its legality, or test the merits of the underlying transaction by questioning the correctness of the findings recorded therein .

63) The impugned orders, however, reveal that the revenue authorities have travelled far beyond their limited jurisdiction by entering into an elaborate examination of the Petitioner's title, the validity of testamentary succession, the authority of the vendors, the effect of alleged prohibitory orders, and the legality of registration of the Consent Decree. Such an exercise is plainly impermissible in mutation proceedings. It is sitting in appeal and reversing the Court's Decree.

64) It is true that the objection proceedings were triggered at the instance of the Respondent No.5 resulting in the Revenue authorities rejecting the request of the Petitioner. The Petitioner

has questioned the locus of Respondent No.5 before the Revenue authorities as well as in the present Petition. In turn, Respondent No.5 has relied upon *Ramchandra v. Sub-Divisional Officer, Chandrapur and Dossibai Nanabhoy Jeejeebhoy v. P.M. Bharucha*, to contend that he falls within the expression “person interested” under Section 150 (2) of Maharashtra Land Revenue Code.

65) The reliance placed by Respondent No.5 on *Ramchandra v. Sub-Divisional Officer, Chandrapur* is wholly misplaced in the facts of the present case. In *Ramchandra*, the Court was concerned with deletion of a mutation entry pertaining to land reserved for a ‘public purpose’ effected without hearing the affected villagers. The decision turned on violation of principles of natural justice and statutory protection accorded to ‘public land’. The said judgement neither deals with mutation entries sought on the basis of a registered Decree of a civil Court nor does it sanction any adjudication of title by revenue authorities. On the contrary, *Ramchandra* itself reiterates the settled position that mutation entries do not create or extinguish title and that questions of title cannot be determined in revenue or writ proceedings. Far from supporting Respondent No.5, the decision reinforces the limited, fiscal nature of mutation proceedings and is clearly distinguishable on facts.

66) The judgment in *Dossibai Nanabhoy Jeejeebhoy v. P.M.*

Bharucha, relied upon to contend that Respondent No.5, as a lessee or occupier, is a “person interested” is clearly inapposite. While the general proposition that a person in possession under an agreement may have a protectable interest is unexceptionable, the said decision arose in the context of apportionment of compensation under the Land Acquisition Act and application of the doctrine of part-performance under Section 53A of the Transfer of Property Act. The controversy therein was neither concerned with mutation proceedings under Maharashtra Land Revenue Code, 1966, nor with the power of revenue authorities to refuse mutation sought on the basis of a subsisting civil Decree.

67) Though Respondent No.5 seeks to assert locus by claiming to be a “person interested” within the meaning of the Maharashtra Land Revenue Code, 1966, a bare assertion of such status is insufficient in law. Save and except a bald claim of long-standing possession as a lessee, Respondent No.5 has failed to place on record any document such as a registered lease deed or other cogent material demonstrating a subsisting legal right in respect of the subject property. The expression “person interested” cannot be so expansively construed as to permit any individual to merely assert an interest, without foundational proof, and thereby obstruct mutation proceedings.

68) If Respondent No.5 claims an independent or superior

right as a lessee or otherwise, the burden squarely lies upon him to establish such right before a competent civil Court in appropriate proceedings. Until such rights are adjudicated and declared, Respondent No.5 cannot, on the basis of unsubstantiated claims, insist upon the denial of mutation sought on the strength of a registered civil Court Decree. To permit such an approach would render mutation proceedings vulnerable to frivolous objections and defeat their limited fiscal and administrative purpose.

69) Much emphasis was placed by the learned AGP and Respondent No.5 on the absence of probate or Letters of Administration in respect of the Wills of Mr. John Vincent Dias and Mrs. Lidwina Mary Dias. Such issues may be germane in appropriate civil proceedings. They cannot, however, be determinative in mutation proceedings where the claimant relies on a subsisting Decree of a civil Court recognising the Petitioner's rights.

70) The revenue authorities were not called upon to decide whether the vendors had valid title in law, nor whether probate ought to have been obtained. Those questions which stood concluded, at least inter partes, by a Consent Decree passed by this Court, cannot be reopened in mutation proceedings. Until such Decree is set aside in accordance with law, the revenue authorities were bound to act upon it for fiscal purposes.

71) The reliance placed on the decision of the Supreme Court in *Jitendra Singh v. State of Madhya Pradesh* is wholly misplaced when the factual backdrop of that case is carefully examined. In *Jitendra Singh*, mutation was claimed solely on the basis of a Will which had neither been proved nor acted upon through any adjudication by a competent civil Court; significantly, the dispute had arisen even prior to the death of the testatrix. The Supreme Court was thus confronted with a situation where the very foundation of the claim, namely the Will, was uncertain and disputed. It was in that context, that the Court held that the revenue authorities could not effect mutation unless rights under the Will were first crystallised by a competent civil Court.

72) In stark contrast, the present case does not rest on an unproved Will or a mere assertion of testamentary succession. The Petitioner's claim for mutation is founded upon a registered Consent Decree passed by this Court in a suit for specific performance. The existence of a such Decree fundamentally alters the factual and legal position in the present case and renders the reliance on *Jitendra Singh* wholly inapposite.

73) The judgment in *Keshrimal Jivji Shah v. State of Maharashtra* was cited to contend that any transaction entered into in violation of a prohibitory or attachment order is void. While the legal principle enunciated therein is not in dispute, the factual

context in which it was rendered is materially distinct. In *Keshrimal Jivji Shah*, the validity of the transaction itself was directly under challenge before a competent forum, and the Court was called upon to determine the legal consequences of acts done in breach of an attachment or restraint order.

74) In the present case, however, the validity of the Agreement for Sale or the Consent Decree has not been directly assailed in any civil proceedings, nor has any Court declared them to be void or unenforceable. The issue before the revenue authorities was not to adjudicate upon the legality or enforceability of the transaction, but merely give effect to and reflect a subsisting and registered civil Court Decree in the revenue records. To invoke *Keshrimal Jivji Shah* in such circumstances would amount to conferring upon revenue authorities a jurisdiction they do not possess.

75) Similarly, the contention that the Consent Decree is vitiated because it arises out of an Agreement for Sale executed by persons lacking representative title cannot be examined by revenue authorities. Whether the Decree is valid, void or voidable is a matter for a competent civil courts; Revenue authorities cannot declare a civil Court Decree to be ineffective or non est.

76) Considerable emphasis was also placed on the delay of nearly twenty-two years in registration of the Consent Decree and

the alleged illegality under the Registration Act and Stamp Act. These aspects also fall outside the limited scope of mutation proceedings. The Decree stands registered; so long as such registration remains undisturbed, revenue authorities cannot refuse to act upon it on the ground that it ought not to have been registered.

77) The submission that adjudication and payment of stamp duty does not arrest limitation under the Registration Act may have relevance in appropriate proceedings. However, it cannot empower revenue authorities to disregard a registered instrument while effecting mutation.

78) Once the Petitioner produced a registered Consent Decree, the revenue authorities were obliged to give effect to it in the Revenue records, subject always to the settled principle that mutation entries are fiscal and do not confer title. They could not have deleted the entry by embarking upon an adjudication of title.

79) The reliance on *Sushanku Builders Limited v. Apex Grievance Redressal Committee* is equally misplaced. The said decision arose out of proceedings under the slum rehabilitation regime, wherein specialised statutory authorities were exercising powers expressly conferred upon them to examine compliance with statutory conditions, eligibility criteria, and the conduct of the developer. In that context, the Court declined to interfere with

concurrent findings recorded by authorities acting squarely within their jurisdiction.

80) The present case stands on an entirely different footing. The revenue authorities under the Maharashtra Land Revenue Code do not possess jurisdiction to adjudicate title or to examine the validity or effect of civil Court Decrees. Where concurrent findings are recorded by authorities acting beyond limits of their statutory competence, the principle of judicial restraint invoked in *Sushanku Builders* has no application.

81) The judgment in *Ajay Singh v. Khacheru* has been relied upon to contend that this Court ought not interfere with concurrent findings of fact in writ jurisdiction. The said decision was rendered in the context of service and administrative matters, where the Supreme Court cautioned against re-appreciation of evidence or substitution of views in writ proceedings. However, even in *Ajay Singh*, the Supreme Court unequivocally recognised that interference is warranted where authorities act without jurisdiction or in excess of the jurisdiction vested in them.

82) In the present case, the impugned orders are not vitiated by mere errors of appreciation of facts. They suffer from a fundamental jurisdictional infirmity, inasmuch as the revenue authorities have ventured into adjudicating issues of title, succession, and the validity of a civil Court Decree, matters wholly

beyond their statutory competence. Such an error goes to the root of the matter and squarely attracts the well-recognised exception noted in *Ajay Singh*.

83) The reliance placed by Respondent No.5 on *State of Punjab v. Amar Singh* is clearly misconceived when examined in the factual context of the present case. In *Amar Singh*, the Supreme Court was concerned with a situation where a compromise or Consent arrangement was sought to be enforced in direct contravention of an express statutory prohibition. The issue before the Court was whether such a compromise could bind the State or defeat a statutory mandate. The controversy thus arose in substantive proceedings in which the legality and enforceability of the compromise itself was directly in issue.

84) In the present case, however, the Consent Decree passed by this Court has not been challenged in any substantive civil proceedings, nor has any competent court declared it to be void or unenforceable on the ground of statutory violation. The issue before the revenue authorities was not whether the Consent Decree could override statutory prohibitions, but whether a subsisting and registered civil Court Decree could be ignored for the limited purpose of effecting mutation. Until the Consent Decree is set aside in appropriate proceedings, it continues to operate in law and is required to be reflected in revenue records for fiscal and

administrative purposes.

85) The submission that the Petitioner ought to be relegated to a civil suit is also misconceived. The Petitioner has already approached a civil Court and obtained a Decree. To require her to re-litigate the same issues would be contrary to settled principles of law. Respondent No.5 who claims to be a lessee on the subject property cannot under the garb of being a “person interested” prevent a Decree holder from having his name into the Revenue records. Respondent No. 5, even assuming has a subsisting interest, is not remediless; it is open to him to adopt appropriate civil remedies in accordance with law.

86) In the present case, there is occasion to consider Section 264 of the MLRC, as the superior holder of the land is present and it is only in his absence that the person actually in possession would be liable for dues under the land revenue.

87) The contention founded on the prohibition / restraint orders dated 17th November 1973 and 24th June 1974 may raise issues between the concerned statutory authorities and the parties affected. However, the existence, operation and legal consequences of such orders cannot be examined by revenue authorities to declare a civil Court Decree ineffective for the purpose of mutation. The plea of suppression of prohibitory orders dated 17th November 1973 and 24th June 1974 also cannot, in the present factual

setting, furnish a basis of refusing mutation on the strength of a subsisting registered Decree. Questions of knowledge, suppression, and their legal consequences are matters for adjudication in properly constituted proceedings.

88) Merely because probate was not obtained at the relevant time cannot, by itself, justify deletion of mutation in proceedings of this nature, particularly where no rival claimant to the estate of Mrs. Lidwina Mary Dias or predecessor in title has come forward and where the Petitioner rests her claim on a civil Court Decree.

89) This Court is mindful of the limited scope of interference under Article 226 of the Constitution of India. However, where statutory authorities act beyond jurisdiction and ignore the binding effect of a civil Court Decree, interference becomes necessary to prevent manifest injustice.

90) In view of the aforesaid discussion, this Court holds that the impugned orders dated 14th May 2009, 29th March 2010 and 30th November 2011 are vitiated by jurisdictional error, suffer from patent illegality, and cannot be sustained. Accordingly, the said impugned orders dated 14th May 2009, 29th March 2010 and 30th November 2011 are quashed and set aside.

91) The Petition, accordingly succeeds, with the clarification that restoration of mutation entry is purely for fiscal and revenue purposes and shall not confer, declare or extinguish title nor

prejudice the rights of any party to seek appropriate relief before a competent civil Court.

92) Mutation Entry No.2248 effected in the Property Register Card in respect of land bearing Survey No.236, Hissa No.2, CTS No. B/1061, admeasuring about 1067.7 square metres, situated at Hill Road, Bandra (West), Mumbai in favour of the Petitioner shall stand restored, subject to the clarification.

93) Respondent No.4 – City Survey Officer, Bandra, shall carry out the necessary entries in the Property Register Card in terms of this order within a period of four weeks from the date of receipt of an authenticated copy of this Judgment.

94) Rule is made absolute in the aforesaid terms.

95) There shall be no order as to costs.

(KAMAL KHATA, J.)

List of Judgments Relied upon:

1. *Shrikant R. Sankanwar & Ors. Vs Krishna Balu Naukudkar* [2003 Sc Online Bom 46]
2. *Ramesh Shantilal Modi & Anr. Vs State of Maharashtra* [2018 Sc Online Bom 1330]
3. *Ramchandra vs SDO, Chandrapur* [2008 SCC Online Bom 809]
4. *Dossibai Nanabhoy Jeejeebhoy v. P.M. Bharucha* [1958 SCC Online Bom 90]
5. *Jitendra Singh v. State of Madhya Pradesh* [2021 SCC Online SC 802]
6. *Keshrimal Jivji Shah v. State of Maharashtra* [2004 SCC Online Bom 368]
7. *State of Punjab v. Amar Singh* [(1974) 2 SCC 70]
8. *Sushanku Builders Limited v. Apex Grievance Redressal Committee* [2025 SCC Online Bom 727]
9. *Ajay Singh v. Khacheru* [(2025) 3 SCC 266]
10. *Sidram Ramdas Darnulwar Vs State of Maharashtra and Others* [2025 SCC Online Bom 982]