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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2064 OF 2025

ATUL
GANESH
KULKARNI

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Date: 2025.03.20
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1. **The Tata Power Company Limited**,
a company incorporated under the
Indian Companies Act (VII of 1913)
having its registered office at
Bombay House, 24, Homi Modi Street,
Fort, Mumbai 400 001 and having its
Regional Office at Lonavala,
Taluka Maval, District Pune.
 2. **Vispi Sarosh Patel**,
Age 50 years, Shareholder,
The Tata Power Company Limited,
24, Bombay House, Homi Mody Street,
Mumbai 400 001
- ... Petitioners

V/s.

1. **The State of Maharashtra**, through
it's Principal Secretary,
Revenue Department, Mantralaya,
Mumbai 400 032
 2. **Tehsildar, Mulshi (Paud)**,
The Office of Tehsildar, Mulshi (Paud),
District Pune.
 3. **Ranjit Bhosale**, Tehsildar,
The Office of Tehsildar, Mulshi (Paud),
District Pune.
 4. **Circle Officer**, Pomgaon,
Taluka Mulshi, District Pune
 5. **Vishnu Chindu Dhole**,
An Adult individual inhabitant,
Residing at Pomgaon, Taluka Mulshi
District Pune
- ... Respondents

Mr. Girish Godbole, Senior Advocate with Mr. Bhushan Deshmukh, Mr. H.N. Vakil, Mr. Samkit Shah and Mr. Farhad Vakil i/by Mulla & Mulla and Craigie Blunt & Caroe for the petitioners.

Mr. B.V. Samant, Additional G.P. with Ms. Tanu Bhatia, AGP for respondent Nos.1 to 4 – State.

Mr. Tejesh Dande with Mr. Bharat Gachavi, Ms. Trushna Shah, Mr. Sarvesh Deshpande, Mr. Vinayak Shelar, Ms. Mansi Dande and Mr. Pratik Sabrad i/by Mr. Bharat Gadhavi for respondent No.5.

CORAM : AMIT BORKAR, J.

RESERVED ON : MARCH 10, 2025

PRONOUNCED ON : MARCH 20, 2025

JUDGMENT:

1. The present writ petition is instituted by the petitioners under Article 226 of the Constitution of India, assailing the legality, validity, and propriety of the order dated 30th October 2024, along with the consequential Mutation Entry No. 3458, as recorded in the revenue records pursuant to the said order. The impugned order, dated 30th October 2024, directs the deletion of the petitioners' names from the revenue records in respect of the property bearing Survey No. 333, situated at Village Kongaon, Taluka Mulshi, which was previously identified as Survey No. 127 (part) of Village Mulapur, and measures approximately 19.29 acres in total.

2. The material facts leading to the filing of the present petition are as follows: Petitioner No. 1 acquired a portion of the subject property, ad-measuring 4.04 acres, through a registered

conveyance deed executed by the then State Government between the years 1929 and 1936. Additionally, another portion of the subject property, ad-measuring 12.24 acres, was granted in favor of Petitioner No. 1 under the provisions of Section 117B of the erstwhile Bombay Land Revenue Code, 1879. The legal effect of the said grant under the said provision is that the petitioner derived possessory as well as proprietary rights over the said land, which were duly reflected in the revenue records. Notably, in the year 1929, Survey No. 127 (part) of Village Mulapur was merged with Village Kongaon, thereby being renumbered as Survey No. 333 of Village Kongaon. A separate 7/12 extract was accordingly issued, wherein the name of Petitioner No. 1 was duly recorded for an area of 15.24 acres, as granted under Section 117B of the Bombay Land Revenue Code, 1879. The portion of 4.04 acres formed part of Survey No. 4/Mulapur/1, which was a part of a larger tract of 217 acres acquired by Petitioner No. 1 from the State Government, which came to be known as Tata Talao.

3. On 10th October 1936, a registered conveyance deed was executed in favor of Petitioner No. 1 by the then State Government in respect of various lands, including the land ad-measuring 4.04 acres, thereby further strengthening the proprietary rights of the petitioners. The execution of this registered conveyance is a significant factor, as it confers indefeasible legal title upon the petitioners, which cannot be disturbed except in accordance with due process of law.

4. In the year 1939, Survey No. 333 underwent sub-division, resulting in the creation of Survey No. 333 (part), ad-measuring

12.24 acres. The said sub-division was duly recorded in the 7/12 extract in the name of Petitioner No. 1, further confirming its possession and ownership over the subject land. At the same time, the name of one Dhondu Gopal Dhere was recorded for an area of 1.22 hectares in respect of Survey No. 333/1.

5. It is an undisputed position that from the year 1939 up until the year 2010, Petitioner No. 1 was in uninterrupted, peaceful, and continuous possession of the land ad-measuring 12.24 acres, which remained consistently reflected in the revenue records, as evidenced by successive 7/12 extracts. On 5th May 2010, Mutation Entry No. 2723 was recorded in respect of Survey No. 333 (part), correcting the name of Petitioner No. 1-Company in the revenue records.

6. In January 2014, in order to ascertain the precise extent and boundaries of their land, the petitioners undertook a survey by M.R. No. 10797 of 2014. Upon completion of the said survey, the petitioners proceeded to fence their property, an action that was carried out without any objection from any authority or third party. The absence of any challenge or opposition at the time of fencing further reinforces the petitioners' claim of exclusive possession.

7. It is the case of the petitioners that on 10th August 2022, respondent No.5 preferred an application before the office of the Tahsildar, invoking the provisions of Section 155 of the Maharashtra Land Revenue Code, 1966 ("MLRC"), seeking correction of an alleged clerical error in the revenue records. It is further contended that on 19th August 2022, respondent No.5, by

way of an authorization, empowered one Vijay Nathur Mirkute to represent him in the proceedings before the revenue authorities. The petitioners have brought on record that they have ongoing litigation with the said Vijay Nathur Mirkute concerning other parcels of land situated in Village Shedani.

8. It is further the case of the petitioners that, on 25th January 2023, respondent No.5 executed a registered conveyance deed in respect of land bearing Survey No.333/1 of Village Pomgaon in favour of four individuals. The said transaction was duly recorded in the revenue records by way of Mutation Entry No.3365.

9. Thereafter, on 15th May 2023 and 25th June 2024, the Tahsildar, Mulshi (respondent No.2) issued notices of hearing in relation to the application preferred under Section 155 of the MLRC. However, it is pertinent to note that, on 19th July 2025, respondent No.5 submitted another application before the Tahsildar stating that certain discrepancies had crept into the areas mentioned in his earlier application dated 10th August 2022. By way of the said application, respondent No.5 sought cancellation of his previous application and requested that his written submissions dated 19th July 2024 be treated as his application under Section 155 of the MLRC.

10. On the very same day, i.e., 19th July 2024, respondent No.5 submitted separate written submissions wherein he altered the basis of his original application dated 10th August 2022. However, it is significant to observe that, despite such material changes in his claim, no supporting documentary evidence was furnished by

respondent No.5 to substantiate his alleged title over the subject property. In response, on 30th July 2024, petitioner No.1 filed an application seeking copies of nine documents, which were purportedly relied upon by respondent No.5 in his application. However, only five out of the nine requested documents were supplied to the petitioners. Subsequently, on 12th August 2024, the petitioners filed detailed written submissions opposing the purported application under Section 155 of the MLRC. It is also borne out from the record that, on 23rd August 2024, the roznama indicated that the matter under Section 155 stood closed for orders.

11. It further transpires that, on 3rd October 2024, respondent No.2 directed respondent No.4 to conduct a panchnama in respect of Survey No.333, admeasuring 12 acres and 24 gunthas, to ascertain the possession of the said land. However, no prior notice or intimation was issued to the petitioners in respect of the said proceedings. The record reflects that, solely on the basis of the statement made by respondent No.5, respondent No.4 proceeded with the panchnama without affording any opportunity to the petitioners to participate in the said process. Thereafter, on 9th October 2024, respondent No.4 submitted his report to respondent No.2, and acting upon the said report, respondent No.2 proceeded to pass the impugned order dated 30th October 2024. By way of the said order, the name of the petitioners was deleted from the 7/12 extract of the subject property and, in their place, the name of one Dhondu Gopal Dhore was recorded in the revenue records.

12. The petitioners contend that the impugned order dated 30th October 2024 was served upon petitioner No.1 only on 2nd January 2025 and was given effect to on 6th January 2025. However, despite the mandate under the Government Resolution dated 18th January 2022, requiring publication of such orders on the official website, the impugned order was not uploaded in the public domain. Being aggrieved by the said action, the petitioners have approached this Court by way of the present writ petition, assailing the legality and propriety of the impugned order passed by respondent No.2.

13. That on 18th February 2025, this Court, upon considering the submissions advanced on behalf of the respective parties, was pleased to grant an ad-interim order, thereby granting relief in terms of prayer clause (b) and directing respondent Nos. 2 to 4 to effect deletion of Mutation Entry No. 3458 in the 7/12 extract. It is pertinent to note that the said order dated 18th February 2025 was passed after affording an opportunity of hearing to all concerned parties, including the learned Assistant Government Pleader representing the official respondents. Despite the order being passed after due deliberation, the petitioners, by their communication dated 20th February 2025, informed respondent No.2 about the order and requested compliance thereof. However, respondent No.2, for reasons best known to it, failed to act in furtherance of the said judicial directive, thereby necessitating further intervention by this Court.

14. Mr. Godbole, learned Senior Advocate appearing on behalf of the petitioners, has vehemently contended that the impugned

order dated 30th October 2024, passed by respondent No.2 purportedly in the exercise of powers conferred under Section 155 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as "MLRC"), is wholly misconceived and patently without jurisdiction. He has meticulously drawn attention to the applications dated 10th August 2022 and 19th July 2024, on the basis of which the said order was passed, and has pointed out that the same was in effect a challenge to the deletion of the name of respondent No.5's grandfather from the 7/12 extract, which event had taken place as far back as in the year 1939. He has strenuously urged that the scope of Section 155 of the MLRC is limited to the correction of "clerical errors" and does not extend to entertaining challenges to entries made several decades ago, particularly when no cogent material was placed on record to substantiate any purported clerical mistake.

15. It has been further submitted by Mr. Godbole that the application seeking rectification of the alleged clerical error was wholly devoid of any supporting documentary evidence. He has questioned the very basis upon which such an application was preferred in the year 2022 for an alleged error that, according to respondent No.5, occurred in the year 1939. He has further contended that the proceedings under Section 155 of the MLRC were closed for orders on 23rd August 2024, yet, surprisingly, on 3rd October 2024, the Tahsildar, in an inexplicable exercise of discretion, directed the Circle Officer to carry out a panchnama of the subject property. Pursuant to the said direction, the Circle Officer conducted a panchnama on 9th October 2024, recording

the statement of respondent No.5 and concluding that respondent No.5 was in possession of the subject property. He has asserted that such an action, being in clear violation of the principles of natural justice and fair play, cannot be sustained in law.

16. In support of his contentions, the learned Senior Advocate has placed reliance upon the judgment of the Hon'ble Supreme Court in *Telangana Housing Board v. Azamunnisa Begum (died) through Legal Representatives & Ors.* [(2018) 7 SCC 346], wherein it has been categorically held that a correction purportedly made under the garb of rectifying a clerical error cannot, under any circumstances, be treated as falling within the scope of a mere clerical correction. He has emphasized that the impugned order dated 30th October 2024 is legally unsustainable, as the very exercise of jurisdiction by respondent No.2 was impermissible in law.

17. The learned Senior Advocate has further submitted that the purported correction of the clerical error was vitiated by mala fides and was undertaken in collusion with respondent No.5. He has brought to the attention of this Court the questionable conduct of the official respondents, particularly in appointing the Circle Officer after the matter was closed for orders, directing the preparation of a panchnama without any notice to the petitioner, while respondent No.5 was present at the subject property despite the record not reflecting issuance of any notice to him. He has also drawn attention to the failure of the respondents to upload the impugned order dated 30th October 2024 on the government portal, as mandated by the Government Resolution dated 18th

January 2022, which requires uploading of such orders on the same day of their passing. Further, despite the clear and categorical order of this Court dated 18th February 2025 directing the deletion of Mutation Entry No. 3458, the respondents failed to implement the same, despite being represented before this Court through their learned advocates. He has pointed out the affidavits filed by respondent No.3 and respondent No.5, both affirmed on 4th January 2025, which, according to him, bear striking similarities inasmuch as 11 paragraphs of both affidavits are identical, which cannot be a mere coincidence, but rather an indicator of collusion. In support of his submission that such exercise of power in collusion with a private party warrants action against respondent No.3, he has relied upon the judgment of the Hon'ble Supreme Court in *Union of India v. K.K. Dhawan* [(1993) 2 SCC 56].

18. Per contra, Mr. Samant, learned Assistant Government Pleader, has submitted that the direction issued by this Court on 18th February 2025 has been duly complied with by the respondents on 11th March 2025. He has contended that the petitioners were afforded a reasonable opportunity of hearing until 30th August 2024. However, he has candidly admitted that the inspection report was prepared in the absence of the petitioners and without issuing any prior notice to them. In view of the aforesaid, he has submitted that this Court may be pleased to pass appropriate orders relegating the parties to the position as it stood on 30th August 2024, with a direction to respondent No.3 to conduct further proceedings afresh, in accordance with law.

19. The learned Assistant Government Pleader has further submitted that under Section 155 of the MLRC, respondent No.3 possesses the authority to correct errors detected during the course of an inspection. In support of his submission, he has placed reliance upon the judgment of a coordinate Bench of this Court in *Western Coalfields Limited, through its Area General Manager v. Tahsildar, Kamptee & Ors.* [2022 SCC OnLine Bombay 2309] and *Vijayalaxmi Shrinivas Panditrao v. Deputy Conservator of Forests & Ors.* [2023 SCC OnLine Bombay 1739]. He has submitted that the impugned order was passed on account of respondent No.3 forming an opinion that petitioner No.1-Company had failed to produce any documentary evidence demonstrating that, out of the total land admeasuring 15 acres 24 gunthas situated in Village Kongaon, an area of 12 acres 24 gunthas was actually transferred to petitioner No.1-Company from the erstwhile owner. He has, therefore, urged that this Court may be pleased to relegate the parties to the position as on 30th August 2024.

20. Mr. Dande, learned Advocate appearing for respondent No.5, has submitted that the petitioner has failed to produce any conclusive documentary evidence to substantiate its claim that land admeasuring 12 acres 24 gunthas was actually transferred to petitioner No.1-Company by the previous owner. He has accordingly contended that respondent No.3 has rightly exercised jurisdiction under Section 155 of the MLRC, and no interference with the impugned order is warranted by this Court.

21. Rival contentions now fall for determination before this Court.

22. Upon meticulous examination of the record and the written submissions tendered by the respective parties, the principal issue that emerges for adjudication is whether the deletion of the name of petitioner No.1 from the 7/12 extract, pertaining to the land admeasuring 15 acres and 24 gunthas, falls within the purview of the power vested under Section 155 of the Maharashtra Land Revenue Code, 1966 ("MLRC"). It is imperative to analyze whether such deletion constitutes a mere clerical correction or partakes the character of a substantive alteration, which is beyond the scope of the said provision.

23. The Hon'ble Supreme Court, in the case of *Telangana Housing Board v. State of Telangana* (supra), had the occasion to consider the interpretation of the expression "clerical error" under the provisions of Section 87 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317. In the factual matrix of the said case, the correction sought to be effected pertained to the measurement of the area of Survey No.1009. The Supreme Court, in unequivocal terms, observed that if a correction leads to the generation of a legal contention or an arguable point, such an exercise transcends the ambit of a mere clerical correction and instead assumes the nature of a substantive rectification, which would not fall within the purview of Section 87 of the said Act. The ratio of this judgment would squarely apply to the case at hand, wherein the deletion of petitioner No.1's name from the revenue records is not a mere typographical or inadvertent mistake but has significant legal implications affecting substantive rights.

24. Further, the Supreme Court, in the case of *Tata Consulting Engineers v. Workman Employed and Vice-Versa* [(1980) SCC (Supp) 627 : AIR 1981 SC 1088], elucidated the scope of an accidental slip or omission. The Hon'ble Court expounded that a clerical error is one that pertains to an unintended mistake, where what was actually meant to be recorded was not so recorded due to inadvertence. It was held that a clerical error refers to an aspect that the Court never intended to include and which does not require any fresh interpretation, argument, or disputation. Furthermore, the Supreme Court distinguished between an "arithmetical error," which refers to an error in computation, and a "clerical error," which pertains to a mistake in writing or transcription. The principles enunciated therein are germane to the present case, inasmuch as the deletion of the name of petitioner No.1 from the revenue records is not merely a rectification of an inadvertent error but involves a substantive adjudication on the title and ownership of the land, which is beyond the remit of Section 155 of the MLRC.

25. Turning to the facts of the present case, a perusal of the impugned order reveals that the exercise undertaken by the concerned authorities was to remove the name of petitioner No.1, which had been entered in the revenue records since the year 1939, on the ostensible ground that petitioner No.1 had failed to produce documentary evidence to establish the source of acquisition of title concerning the land admeasuring 12 acres and 24 gunthas. The applications dated 10 August 2022 and 19 July 2024, submitted by respondent No.5, make it abundantly clear

that the true intent behind the said applications was to challenge the deletion of the name of respondent No.5's grandfather from the 7/12 extract, which had occurred way back in 1939. Such a challenge, raised under the guise of an application for clerical correction under Section 155 of the MLRC, is legally untenable, particularly when made after an inordinate delay of more than eight decades.

26. The legal infirmity in respondent No.5's case is further accentuated by the categorical admission in paragraph 11 of his affidavit-in-reply, wherein he concedes that the name of his grandfather was removed from the 7/12 extract in the year 1939, pursuant to a grant made under Section 117B of the Bombay Land Revenue Code, 1879 ("BLRC"). This unequivocal admission demolishes the very foundation of respondent No.5's claim, as it establishes that the removal of the name was effected by the revenue authorities in accordance with law, and the same has remained unchallenged for over 80 years. In such circumstances, the application purportedly filed under Section 155 of the MLRC is manifestly misconceived and an abuse of process of law.

27. Furthermore, it is pertinent to note that respondent No.5 has failed to produce any document to substantiate the claim that the name of his grandfather was erroneously deleted in 1939. The impugned proceedings, initiated without any tangible documentary evidence, are legally unsustainable. Additionally, the manner in which the panchanama was conducted raises serious procedural irregularities. It is evident that the authorities proceeded to undertake the panchanama without issuing notice to

the petitioners, thereby violating the principles of natural justice. Conversely, respondent No.5, whose statement was recorded on the day of the inspection, was also not formally noticed for the said exercise. This glaring procedural lapse raises concerns about the fairness and transparency of the entire process and gives rise to a strong inference that the proceedings were orchestrated with ulterior motives.

28. In view of the foregoing discussion, it is patently clear that the impugned order is vitiated by legal infirmities, procedural irregularities, and jurisdictional overreach. The deletion of petitioner No.1's name from the revenue records does not fall within the domain of a clerical correction under Section 155 of the MLRC but instead pertains to substantive adjudication of rights, which is impermissible under the guise of a mere rectification. Therefore, the impugned order cannot be sustained in law and is liable to be set aside.

29. The pivotal question that now necessitates judicial determination is whether the conduct of respondent No.3 warrants an inquiry in terms of the well-established parameters enunciated by the Hon'ble Supreme Court in the case of *Union of India v. K.K. Dhawan*, (1993) 2 SCC 56. The Hon'ble Supreme Court in the said pronouncement has unequivocally held that disciplinary proceedings can be initiated against a government servant even in matters where he exercises quasi-judicial functions, provided certain conditions are satisfied. The Court laid down the following instances wherein disciplinary action would be justified:

“(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;

(ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty;

(iii) if he has acted in a manner which is unbecoming of a Government Servant;

(iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

(v) if he had acted in order to unduly favour a party;

(vi) if he had been actuated by corrupt motive, however small the bribe may be because Lord Coke said long ago “though the bribe may be small, yet the fault is great”.”

30. The legal rationale underlying the aforementioned principles is to ensure that public officials entrusted with statutory and quasi-judicial responsibilities discharge their functions with utmost fidelity, fairness, and accountability. The Courts have consistently maintained that while adjudicatory independence is sacrosanct, it cannot be construed as a shield for arbitrariness, collusion, or mala fide actions that vitiate the rule of law. The doctrine of public trust mandates that any deviation from these principles must be subjected to judicial scrutiny.

31. The Hon’ble Supreme Court, while laying down the above-stated parameters, also made it amply clear that the instances catalogued therein are not exhaustive but merely illustrative. The Court further clarified that disciplinary action cannot be initiated merely on the basis of technical violations or erroneous orders

unless such actions squarely fall within the instances enumerated above. The fundamental premise for initiating an inquiry in such cases is the presence of mala fides, gross negligence, recklessness, or conduct unbecoming of a public servant.

32. Thus, in the factual matrix of the present case, the pertinent question that arises for adjudication is whether the conduct of respondent No.3 falls within the ambit of any of the categories delineated by the Hon'ble Supreme Court. Upon a careful analysis of the circumstances, I am of the considered view that the actions of respondent No.3, on a prima facie evaluation, fall squarely within categories (iv) and (v) of the judgment in *K.K. Dhawan* (supra). This conclusion is fortified by the following considerations, which are demonstrative of respondent No.3's deliberate deviation from the prescribed statutory framework and his concerted effort to confer an undue advantage upon respondent No.5.

33. The most glaring and disturbing aspect of this case, which unmistakably points to a concerted and collusive design between respondent No.3 and respondent No.5, is the striking similarity in the affidavits filed by both respondents on the very same day, i.e., 4 March 2025. The petitioners have meticulously compiled and presented a comparative chart in their written submissions, highlighting verbatim similarities in the pleadings of respondent No.3 and respondent No.5, which is extracted below:

<i>Affidavit in Reply of Respondent No.5</i>		<i>Affidavit in Reply of Respondent No.3</i>	
6.	<i>FACTUAL ASPECTS</i>	3.	<i>I say that the relevant facts</i>

<i>SHOWING CLERICAL ERROR:</i> <i>I further say that the <u>Survey No.127 (old)</u> is now numbered as <u>Survey No.333 (new)</u>. I further say that the <u>total area measurement of the said Survey No.127 (Old)</u> is <u>19 Acres and 28 Gunthas</u>.</i>	<i>for the purpose of subject matter of the present case are summarized as under:-</i> <i>a) That the <u>Survey No.127 (old)</u> of Village Mulapur is now numbered as <u>Survey No.333 (new)</u> of Village Pomgaon. Further the <u>total area measurement of the said Survey No.127 (old)</u> is <u>19 Acres and 28 Gunthas</u>.</i>
<i>7. I further say that <u>the aforesaid land was originally owned by one Vishnu Gopal Deshpande and Vinayak Gopal Deshpande, however, the name of Vishnu Gopal Deshpande appears to have been deleted and as his legal heir only one name was reflecting i.e. Vinayak Gopal Deshpande, Hence, the entire Survey No.127 was belonging to Vinayak Gopal Deshpande till 1936.</u></i>	<i>b) That <u>the aforesaid land was originally owned by one Vishnu Gopal Deshpande and Vinayak Gopal Deshpande. However, the name of Vishnu Gopal Deshpande appears to have been deleted and as his legal heir only one name was reflecting i.e. Vinayak Gopal Deshpande, Hence, the entire Survey No.127 was belonging to Vinayak Gopal Deshpande till 1936.</u></i>
<i>8. I further say that <u>in year 1936, part of the land came to be acquired for a project run by Tata Power for constructing a dam. The record clearly indicates that the Tata Power company acquired a land admeasuring only 4 Acres and 4 Gunthas from the said Survey No.127. In the Conveyance Deed, the copy of Land Acquisition award passed in the year 1936 is also enclosed. The Conveyance Deed was executed on 10.10.1936 and the Conveyance Deed as well as the Award clearly indicate that Tata Power company i.e. the Petitioner is having ownership/ Acquisition only limited to the</u></i>	<i>c) That <u>in year 1936 the land came to be acquired or a project run by Tata Power for constructing a dam. The record clearly indicates that the Tata Power company acquired a land admeasuring only 4 Acres and 4 Gunthas from the said Survey No.127. In order to ascertain the said aspect, copy of Conveyance Deed copy of Award passed in the year 1936 is also annexed. The Conveyance Deed was executed on 10.10.1936 and the Conveyance Deed as well as the Award clearly indicate that Tata Power company i.e. the Petitioner is having ownership/ Acquisition only limited to the extent of 4 Acres and 4 Gunthas of</u></i>

<u>extent of 4 Acres and 4 Gunthas of land.</u>	<u>land in the original Survey No.127 (Old) in Village Mulapur.</u>
<u>9. I further say that after acquiring 4 Acres and 4 Gunthas, the balance area of the land i.e. 15 Acres 24 Gunthas was mutated in the name of Respondent No.5's predecessor Dhondu Gopal Dhore by Mutation Entry No.55. The 7/12 extract for the year 1928-1929 reflects that Dhondu Gopal Dhore is the occupier of the said remaining 15 Acres 24 Gunthas of the land from Survey No.127.</u>	<u>d) That the record indicates that the land i.e. 4 Acres and 4 Gunthas which was acquired by Tata Power Company was from Vinayak Gopal Deshpande. After acquiring 4 Acres and 4 Gunthas, the balance area of the land i.e. 15 Acres 24 Gunthas. It appears that later on it was mutated in the name of Dhondu Gopal Dhore by Mutation Entry No.55. The 7/12 extract for the year 1928-1929 reflects that Dhondu Gopal Dhore is the occupier of the said remaining 15 Acres 24 Gunthas of the land from Survey No.127.</u>
<u>10. I further say that the said Mutation Entry on the name of Dhondu Gopal Dhore was continued till 1939. The 7/12 extract of 1939 is available in the Petition which is at page number 85 which clearly reflects that Dhondu Gopal Dhore's name was maintained till 1939.</u>	<u>e) That the said Mutation Entry of Dhondu Gopal Dhore was continued till 1939. The 7/12 extract of 1939 is available in the Petition which is at page 85 which clearly reflects that Dhondu Gopal Dhore's name was maintained till 1939.</u>
<u>11. I further say that after 1939, the name of Dhondu Gopal Dhore appears to have been removed from the Revenue Records by applying provisions under section 117B of the Bombay Land Revenue Code, 1879 which is attracted when someone fails to pay revenue taxes/charges for particular land, the collector has the power to remove his name from the Revenue Records. Thus, by applying the said provision, the name of Dhondu Gopal Dhore appears to have been removed</u>	<u>f) That after 1939, the name of Dhondu Gopal Dhore appears to be removed from the Revenue Records by applying provisions under Section 117B of the Bombay Land Revenue Code, 1879. Perusal of provision 117B reveals that whenever an owner of a particular land fails to pay revenue charges for particular land, the collector has the power to remove his name from the Revenue Records. Thus, by applying the said provision the name of Dhondu Gopal Dhore appears to have been removed from the land record.</u>

<u>from the land record.</u>	
12. I further say that <u>the record also indicates that there is absolutely no pherphar/mutation entry/order or noting by the Revenue Officer thereby specifying why Section 117B of the Bombay Land Revenue Code, 1879 is applied and why the name of Dhondu Gopal Dhore is removed. The records are completely silent in the said regard.</u>	g) <u>That record also indicates that there is absolutely no Mutation Entry or Order by Revenue officer, thereby specifying that Section 117B of the Bombay Land Revenue Code, 1879 was applied. The records are completely silent in this regard. Therefore, it is not clear on what basis, name of Dhondu Gopal Dhore was removed from the revenue records, in respect of area of 12 Acre 24 R. As such it is not clear as to what procedure was followed for showing the area of 12 Acre 24 R in the name of the Petitioner Company in Survey No.333 part (Old Survey No.127) of Village Pomgaon.</u>
13. I further say that <u>the said situation continued till 1965. The 7/12 extract till 1965 reflects that the effect of Section 117B of the Bombay Land Revenue Code, 1879 was given in Survey No.127 (Old). Ultimate consequence of applying 117B against Dhondu Gopal Dhore is that only one name i.e. of Tata Power Company, who was owner of land admeasuring 4 Acres 4 Gunthas, was shown in the entire Revenue Record of Survey No.127 (old).</u>	<u>That the said situation continued till 1965. The 7/12 extract till 1965 reflects that the effect of Section 117B of the Bombay Land Revenue Code, 1879 was given in Survey No.127 (Old) which is now numbered as Survey No.333 (new). Ultimate consequence of applying 117B against Dhondu Gopal Dhore is that name of Tata Power Company was shown in the Revenue Record.</u>
14. I further say that <u>this appears to be the genuine mistake on the part of Revenue Officers that by removing the name of Dhondu Gopal Dhore by applying section 117B, the Revenue officers have maintained only one name that</u>	i) <u>That this appears to be the real and genuine mistake on the part of Revenue Officers that by removing the name of Dhondu Gopal Dhore by applying section 117B, the Revenue officers have maintained only one name that is of Tata Power for the entire Survey</u>

is of Tata Power for the entire Survey No.127 (old). It is required to be noted that in Survey No.127 (old) the Tata Power company would be eligible and entitled to own, hold and possess a land admeasuring 4 Acres and 4 gunthas and not beyond that. However, due to aforesaid clerical error, the record was changed in such manner that the entire Survey No.127 (old) admeasuring 19 Acres and 28 Gunthas was shown to have been owned by Tata Power company. This mistake/error committed in the record requires rectification.

15. I further say admittedly even going by the case of the Petitioner i.e. the Tata Power Company as pleaded by the Petitioner before the Revenue Officers as well as in the present Writ Petition, it is abundantly clear that the Petitioner being Tata Power Company is claiming their ownership only by virtue of acquisition and the award passed in 1936, which means that by no stretch of imagination the Petitioner can claim their right beyond 4 Acre and 4 Gunthas in old Survey No.127. Therefore, when it is considered that Survey No.127 (old) is totally admeasuring 19 Acres and 28 Gunthas, in that event the balance land of 15 Acres and 24 Gunthas is bound to remain in possession, occupation and cultivation of the farmer i.e. the Respondent No.5 being Dhondu

No.127 (old) and Survey No.333 (new) without any basis. It is required to be noted that in Survey o127 (old) the Tata Power Company would be eligible and entitled to hold and possess/own a land admeasuring 4 Acres and 4 gunthas and not beyond that. However, the record was changed in such manner that the Survey No.127 (old) was shown to have been owned by Tata Power company. This probably is the error committed in the record.

j) That admittedly even going by the case of the Petitioner who is claiming their ownership only by virtue of acquisition and the Award passed in the 1936, which means that by no stretch of imagination the Petitioner can claim their right beyond 4 Acre and 4 Gunthas on the property of the Respondent No.5. Therefore, when it is considered that Survey No.127 (old) is totally admeasuring 19 Acres and 28 Gunthas, in that event the balance land of 15 Acres and 24 Gunthas is bound to remain in possession, occupation and cultivation of the local farmers i.e. the Respondent No.5 being Dhondu Gopal Dhore and his legal heirs.

<u>Gopal Dhore and his legal heirs.</u>	
16. <u>I further say that in order to support the aforesaid contention the Aakarband prepared for Tata Power Company as well as Aakarband for the village Pongaon for the purpose of farmers would clearly reflect that the Petitioner company is only concerned with 1 hector 66 R which is equal to 4 Acre and 4 Gunthas. Further, the Aakarband for farmers would also reflect that 6 H 21 R of land is recorded in the name of farmer i.e. the Dhore family. The copies of Aakarband prepared for Tata Power and Village Pomgaon are hereto annexed and marked as Exhibit "A- colly".</u>	k) <u>That in Order to support the aforesaid contention the Aakarband prepared for Tata Talav Village as well as Aakarband prepared for the Village Pomgaon for the purpose of farmers would clearly reflect that the Petitioner company is only concerned with 1 hector 66 R (which is equal to 4 Acre and 4 Gunthas). Further, the Aakarband for farmers would also reflect that 6 H 21 R of land is recorded in the name of farmer i.e. the Dhore family. Copies of Aakarband prepared by Tata Talao Village and Village Pomgaon are hereto annexed and marked as Exhibit "A".</u>

34. Such similarities, in their sheer magnitude and specificity, cannot be attributed to mere coincidence. Rather, they lend credence to the inescapable inference that respondent No.3 and respondent No.5 have acted in connivance to achieve a predetermined outcome.

35. It appears from the record that even after the proceedings were closed for orders, respondent No.3, in an unusual exercise of discretion, called for a report from the Circle Officer. This act, undertaken without any intimation to the petitioners, raises serious concerns about procedural fairness and adherence to the principles of natural justice. The petitioners were neither notified about the visit of the Circle Officer nor afforded an opportunity to present their case regarding the findings recorded therein. On the

other hand, though there is no indication on record that a formal notice was issued to respondent No.5, it is evident that he was present on 3rd October 2024 and his statement was recorded on the said date. The unexplained presence of respondent No.5, particularly when the petitioners remained unaware of the proceedings, gives rise to a reasonable inference that respondent No.5 was privy to special circumstances which do not find support from the official record. Such conduct on the part of respondent No.3 is suggestive of a lack of transparency and fairness in the decision-making process, thereby violating the principles of natural justice.

36. Furthermore, respondent No.3 has failed to furnish any cogent explanation as to how respondent No.5 was present on 3rd October 2024 despite the absence of any formal notice issued to him. The silence on this crucial aspect casts a serious shadow on the credibility of the proceedings conducted by respondent No.3. Additionally, an aspect of material concern is the striking similarity between the affidavit-in-reply filed by respondent No.3 and respondent No.5. A perusal of the said affidavits reveals that eleven paragraphs therein are identical in wording, suggesting that the content was either dictated or influenced by a common source. This raises grave doubts about the independence and impartiality of the response tendered by respondent No.3, who, as a quasi-judicial authority, was duty-bound to act fairly and objectively.

37. The manner in which the power under Section 159 of the relevant enactment has been exercised by respondent No.3 appears to be manifestly in excess of the authority conferred under

the statute. The Supreme Court, in *Telangana Housing Board* (supra), has categorically laid down that statutory powers must be exercised strictly in accordance with the prescribed framework, failing which such exercise would be rendered ultra vires. The facts on record indicate that the deletion of the petitioners' names from the relevant records was not a mere clerical correction but an adjudicatory exercise that necessitated a proper inquiry. However, respondent No.3 proceeded with the deletion on the basis of an application filed belatedly in the year 2022 for an alleged error that purportedly occurred as far back as the year 1939. The absence of any plausible explanation from respondent No.5 as to why such an application was moved after a lapse of more than eight decades further compounds the suspicion surrounding the entire proceeding. Respondent No.3, while initially accepting the alleged error as clerical, has failed to record any findings as to what was originally intended by the Authority in the year 1936 but was purportedly not carried out, thereby leading to the alleged error. This absence of a reasoned determination vitiates the very basis of the decision taken by respondent No.3.

38. The material placed before this Court, particularly the striking similarities in the affidavits and the absence of any cogent justification from respondent No.3, establishes a strong prima facie case of undue favoritism and procedural impropriety. This is not a case of a mere erroneous exercise of jurisdiction but one where respondent No.3 has, by his own actions, subverted the process of law to extend an undue benefit to respondent No.5. Such conduct, if left unchecked, would erode public confidence in the sanctity of

administrative decision-making and would set a dangerous precedent where statutory authorities can collude with private parties to defeat the ends of justice.

39. In light of the aforesaid circumstances, and having due regard to the principles enunciated by the Hon'ble Supreme Court in *K.K. Dhawan* (supra), wherein it has been held that an administrative or quasi-judicial authority must act in a bona fide manner and in accordance with law, it becomes imperative that an inquiry is instituted into the conduct of respondent No.3. Given the apparent procedural irregularities, lack of transparency, and the questionable exercise of discretion by respondent No.3, it is necessary that the Principal Secretary (Revenue), State of Maharashtra, appoint an officer of higher rank to conduct a detailed inquiry into the role and conduct of respondent No.3 concerning the subject matter of the present writ petition. The findings of such an inquiry would ensure accountability and serve as a deterrent against any arbitrary or extraneous exercise of statutory powers.

40. In view of the foregoing discussion and for the reasons recorded hereinabove, this Court deems it appropriate to pass the following directions:

(a) The impugned Judgment and Order dated 30th October 2024, passed by respondent No.3 in RTS No.155/530 of 2022, along with the consequential Mutation Entry No.3458, is hereby quashed and set aside.

(b) The Principal Secretary (Revenue), State of Maharashtra, shall appoint an officer of higher rank to conduct a detailed inquiry into the role and conduct of respondent No.3 concerning the subject matter of the present writ petition..

(c) The said inquiry shall be concluded expeditiously and, in any event, within a period of six weeks from the date of this Judgment. Upon conclusion of the inquiry, a detailed compliance report indicating the findings thereof shall be placed before this Court on or before 5th May 2025.

(d) The parties are at liberty to seek further directions in the event of non-compliance or upon filing of the compliance report.

(e) Rule is made absolute in the above terms. No order as to costs.

41. List the writ petition for compliance on 8 May 2025.

(AMIT BORKAR, J.)