



**Shaila Maruti Dabhane**  
**Vs.**  
**Krushna Kumar Thakur & others**

**ORDER BELOW EXH. 1 IN CRI. M.A. NO.99/2024**

This proceeding is filed under section 316(2), 318(4), 336 (3), 3(5) of B.N.S.

**The case of the complainant, in brief as under:-**

2. The properties situated at Mouje Bamnoli and Mouje Deulwadi, Taluka Karjat, District Raigad, originally belonged to the ancestors of the complainant's maternal family. The complainant has filed the present complaint on behalf of her mother, who is old aged and unable to prosecute the proceedings personally. It is contended that deceased Panduranga Gopal Badekar was the original owner of the ancestral properties. After his death, his legal heirs were three sons, namely Narayan, Shivaji and Ramchandra, and two daughters, namely Sundarabai and Shardabai, out of whom Shardabai is the mother of the complainant. According to the complainant, in respect of certain lands situated at Bamnoli, including Survey No. 37/1, her mother had earlier executed a release deed in favour of her brothers, whereas other lands such as Survey Nos. 6/1A/2 and 36/1 were sold jointly by all legal heirs

with mutual consent. In respect of Survey No. 1/2, the name of the complainant's mother was also mutated in the revenue record. It is the specific case of the complainant that in respect of Survey No.38/1 situated at Deulwadi, accused No.2 created and used a false and bogus power of attorney by dishonestly obtaining forged signatures and thumb impressions of Narayan, Shivaji and Ramchandra.

3. The complainant has further submitted that, the said power of attorney, namely that the first two pages are typed on a typewriter whereas the subsequent pages are typed on a computer, thereby casting serious doubt upon its genuineness. It is further alleged that the said power of attorney was not registered before any competent authority. On the strength of the said bogus power of attorney, accused No.2 is alleged to have obtained necessary permission from the revenue authorities in respect of the tenanted land and thereafter executed a registered sale deed dated 23/07/2008 in favour of accused No.1 in respect of Survey No. 38/1 .

4. The complainant further alleges that the Talathi initially did not issue proper notices while effecting the mutation entry and though objections were later raised by Narayan, Shivaji and Ramchandra, subsequent mutation entries were again effected by suppressing the earlier objections. According to the complainant, mutation entry Nos. 886, 888 and other related entries were fraudulently created on the basis of forged and bogus documents.

5. It is further the case of the complainant that by notification dated 28/01/2021, the lands bearing Survey No. 38/1 and Survey No. 42 came to be acquired for the Panvel–Karjat Railway Corridor Project, and substantial compensation amounts were awarded. By taking undue advantage of the fraudulent mutation entries, accused No.1 has already withdrawn the compensation amount in respect of the acquired lands and thereby caused wrongful loss to the complainant's mother and aunt, who have undivided ancestral shares in the property. The accused persons have dishonestly appropriated the entire compensation amount by suppressing the true facts regarding heirship and title before the competent authority and have thereby caused wrongful gain to themselves.

6. It is also contended that the accused persons have never paid any sale consideration to the maternal uncles of the complainant and that the entire transaction is a result of deception, forgery and dishonest intention to grab both the ancestral property as well as the acquisition compensation. On these allegations, the complainant has prayed for criminal action against the accused persons for offences relating to cheating, forgery, use of forged documents, dishonest misappropriation and common intention.

7. The proposed accused/respondents have appeared through learned Advocate and filed their detailed

written say along with relevant documents opposing the complaint. It is the specific defence of the proposed accused/ respondents that the present complaint is false, belated and filed only with a view to claim share in the compensation amount awarded in the land acquisition proceedings. The complainant has no independent right, title or interest in the disputed properties, as the complainant has failed to establish that her mother Shardabai and aunt Sundarabai are legal heirs of deceased Panduranga Gopal Badekar / Gopal Pandu Badekar. It is contended that the very question of heirship is pending inquiry before the competent revenue authority pursuant to the remand order passed in the RTS appeal proceedings. The transaction in question is based on registered sale deeds executed in the years 2007 and 2008, and the same were acted upon by the revenue authorities by effecting corresponding mutation entries in the record of rights. According to them, the mutation entries were certified long back and have remained in force for several years without any effective legal challenge.

8. It is further submitted by the respondents that the complainant and her family members were all along aware of the transactions and mutation proceedings, yet no criminal action was initiated for about 15 years, and only after the lands came to be acquired for the Panvel–Karjat Railway Corridor Project and substantial compensation amount became payable, the present complaint has been filed. The compensation amount has been withdrawn by

accused No.1 on the strength of valid and subsisting revenue entries, sale deeds and notices issued by the competent acquisition authority, and therefore such withdrawal cannot by itself constitute any criminal offence. The proposed accused/ respondents have specifically denied the allegation that the power of attorney is forged or fabricated. According to them, the complainant has not produced any expert opinion, handwriting comparison report or other scientific evidence to substantiate the allegation of false signatures and thumb impressions. The issues raised by the complainant primarily pertain to title, succession, heirship, mutation validity and entitlement to compensation, all of which are matters falling within the domain of civil and revenue adjudication. Hence, according to the present complaint is a civil dispute given a criminal colour. The proposed accused/ respondents have therefore prayed that in the absence of sufficient prima facie material to show forgery, fabrication or dishonest intention, the complaint deserves to be dismissed.

9. The police have filed report under section 225 of BNSS. I have perused the report. The police report reveals that the disputed properties bearing Survey No. 38/1 and Survey No. 42 situated at Mouje Deulwadi, Taluka Karjat, stand transferred in the name of accused No.1 on the basis of registered sale deeds of the years 2007 and 2008, and corresponding mutation entries were certified in the revenue record long back.

10. The issue regarding legal heirship of Shardabai and Sundarabai, as well as their entitlement in the ancestral properties, is already the subject matter of proceedings before the revenue authorities and the same has been remanded for fresh inquiry by the competent appellate authority. The lands in question were subsequently acquired for the Panvel–Karjat Railway Corridor Project, and the compensation amount has already been withdrawn by accused No.1 on the basis of the revenue entries and notices issued by the competent acquisition authority.

11. The police report opines that the dispute appears to be predominantly connected with heirship, mutation validity and share in compensation, and no immediate direct material has surfaced in the inquiry to establish deliberate fabrication of the disputed power of attorney by the proposed accused.

12. I have carefully considered the complaint, verification statement, documents produced by the complainant, the written say and documents filed by the proposed accused, and the police report submitted under Section 225 of the Bharatiya Nagarik Suraksha Sanhita. Upon overall consideration of the material on record, it appears that the disputed lands were transferred in favour of accused No.1 on the basis of registered sale deeds executed in the years 2007 and 2008, and corresponding mutation entries were effected and continued in the revenue record for a long period. The long-standing entries

in the names of the brothers clearly indicate that, at the relevant time, no steps were taken by them to get the names of the sisters entered in the record of rights in respect of the suit properties. This prolonged omission creates serious doubt regarding the present claim of subsisting share of the sisters. Considering such long-standing revenue entries, the registered sale deeds, and the fact that the names of the sisters were never reflected in the revenue record at the relevant time, it prima facie appears that accused No.1 purchased the suit properties as a bona fide purchaser for valuable consideration on the basis of the then existing title and revenue documents.

13. The complainant has mainly alleged that accused No.2 created a false and bogus power of attorney and by using the same transferred the lands in favour of accused No.1, who thereafter also withdrew the land acquisition compensation amount. However, except the suspicious circumstance that some pages of the alleged power of attorney are typewritten and some are computer typed, there is presently no prima facie documents or other independent material available on record to prima facie establish deliberate forgery or fabrication at the hands of the proposed accused.

14. In the present matter, the complainant has not examined any of the brothers in support of her allegations, though they are the most material witnesses to speak about the alleged execution of the power of attorney, the sale

transaction, and the allegation that no consideration amount was paid. The non-examination of such best available witnesses at this preliminary stage further weakens the prima facie case. The police report submitted under Section 225 BNSS also does not disclose any direct material showing that the proposed accused themselves prepared false signatures or thumb impressions. Mere suspicion, howsoever strong, cannot by itself constitute sufficient ground for proceeding criminally when the foundational issue regarding title and heirship remains under inquiry before the competent revenue authority.

15. It is further seen that the complaint has been instituted after a long lapse of about fifteen years from the date of the sale transactions and only after the lands came to be acquired for the Panvel–Karjat Railway Corridor Project and the compensation amount became payable, which amount has already been withdrawn by accused No.1 on the basis of the existing revenue entries. The timing of the complaint lends support to the defence contention that the real controversy presently concerns heirship, title, validity of mutation entries, and share in the compensation amount. These are predominantly matters of civil and revenue adjudication.

16. In such circumstances, and in the absence of sufficient prima facie material to establish the ingredients of the alleged offences, I found that no sufficient ground exists for proceeding against the proposed accused and therefore

the complaint deserves to be dismissed under Section 226 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Hence, proceed to pass following order:-

**Order**

The complaint stands dismissed under Section 203 of the Code of Criminal Procedure and Section 226 of BNSS.

Sd/-

(Smt. A. S. Wadkar)

Judicial Magistrate, F.C., Karjat,  
Dist-Raigad.

Date: 16/04/2026