

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1442 OF 2012

DATTA RAMBHAU MANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for petitioner : Mr. B. R. Kedar
A.G.P. for respondent Nos. 1 to 4 : Mr. D. B. Bhange
Advocate for respondent Nos. 5(a), 5(b) and 6 : Mr. H. I. Pathan h/f
Mr. J. H. Deshmukh

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CORAM : V. K. JADHAV, J.

DATED : 29th SEPTEMBER, 2015

P.C. :-

1. Heard both sides.
2. The petitioner had purchased 01 H. 03 R. of land out of Survey No. 104/A from respondent No. 6 for a valuable consideration under a registered sale deed. Accordingly, mutation entry No. 31 came to be sanctioned in the name of the petitioner. Though, initially none had raised objection for execution of the sale deed of the said land in favour of the petitioner and the sanctioning of mutation entry No. 31 to that effect, subsequently, respondent No. 5 - deceased Sayed Nabi filed an appeal before the Sub-Divisional Officer, Partur after lapse of more than 3 years. The Sub-Divisional Officer, Partur, was pleased to allow the said appeal by judgment and order dated 16.08.1997. Being aggrieved by the same, the petitioner had

preferred ROR Appeal before the Additional Collector, Jalna. The Additional Collector, Jalna, by judgment and order dated 29.06.1999, dismissed the said appeal. Further, the Additional Commissioner, Aurangabad Division, Aurangabad, was pleased to dismiss the Revision by judgment and order dated 13.09.2011. All the authorities, as mentioned above, have considered the judgment and decree passed in Regular Civil Suit No. 251 of 1993.

3. It appears from the record that deceased Sayed Nabi, who is present respondent No. 5, instituted the said suit against deceased respondent No. 6 Sayed Kausar and the present petitioner. The said suit was decreed on 30.09.1995 and as per the said decree, respondent No. 6 – deceased Sayed Kausar was restrained perpetually to alienate the land which is the subject matter of the present litigation. Even then, deceased Sayed Kausar had executed registered sale deed of this land in favour of the petitioner. Accordingly, the Sub-Divisional Officer had cancelled the mutation entry No. 31 and the said order was confirmed by the appellate authorities including the Additional Commissioner.

4. Meanwhile, the petitioner has instituted a Regular Civil Suit bearing RCS No. 270 of 1998 against the respondents for perpetual injunction in respect of the same property. The said suit bearing

RCS No. 270 of 1998 was decreed by the Civil Judge J. D., Partur, by judgment and order dated 07.11.2005.

5. Being aggrieved by the said judgment and decree passed in RCS No. 270 of 1998, the legal heirs of deceased Sayed Nabi preferred an appeal along with Miscellaneous Civil Application No. 131 of 2012 for condonation of delay caused in filing the appeal. During pendency of the said application, a compromise was effected between the legal heirs of deceased Sayed Nabi and the present petitioner. Deceased Sayed Kausar was respondent No. 2 in the said Miscellaneous Civil Application No. 131 of 2012. Though notices were duly served on him, he had not appeared in the said application and therefore, hearing of the appeal was ordered to proceed *ex-parte* against him. In the said application, a compromise was effected between the legal heirs of deceased Sayed Nabi and the petitioner and the legal heirs of deceased Sayed Nabi have accepted the title and possession of the present petitioner over the suit land ad-measuring 1 H. 43 R. out of the land Gut No. 434 situated at Village Dolhara, Taluka Partur, District Jalna. Accordingly, the said application came to be disposed of in terms of compromise effected between the parties by order of the court.

6. In view of the compromise effected between the contested

parties, in terms of the said compromise, the Revenue authorities are bound to sanction appropriate mutation in respect of the suit land ad-measuring 1 H. 43 R. out of the land Gut No. 434 situated at Village Dolhara, Taluka Partur, District Jalna.

7. In view of the above observations, the writ petition is disposed of. No costs.

(V. K. JADHAV, J.)

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