

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 3314 OF 2015

Sunil s/o Kalyan Jadhav and others	...	Petitioners
VS		
Khushivrtabai w/o Santu Tarde		Respondent

Mr. D.P. Palodkar, Advocate for petitioners

CORAM : SUNIL P. DESHMUKH, J.
DATE : 30TH MARCH, 2015

ORDER

1. Petitioners-original defendants purport to question, judgment and order dated 20-11-2014 passed by learned Civil Judge, Junior Division, Ambad whereunder application of the respondent-original plaintiff at Exhibit-5 in Regular Civil Suit No.158 of 2013 has been allowed and the order dated 22-1-2015 by which learned Principal District Jalna, dismissed miscellaneous civil appeal no. 95 of 2014 filed by defendants challenging the order of the trial court.

2. Heard Mr. Palodkar, learned counsel appearing on behalf of the petitioners. He strenuously argues that both the courts have given no credence to the basic document i.e. title deed whereunder the petitioners have purchased the property and have simply relied on revenue record. He further submits that

an adjoining land owner's affidavit has also been ignored, so is the case of panchanama drawn on 26-2-2014. He is at pains to submit that the orders rendered by the courts below i.e. the trial, as well as appellate court are perverse.

3. On perusal of the orders passed by the trial court as well as appellate court, it surfaces that though the petitioners contend that they have purchased the suit land in 2005 under a registered sale deed, there had been no efforts worth the name till 2013 for incorporation of mutation entry in respect of the same and when it was so tried, litigation has emerged.

4. The trial court as well as appellate court have given due regard to the revenue record as is appearing, showing vendor of the petitioners to be in possession of the property as well as her title to the same being not disturbed in the relevant column. Though it is being contended that the adjoining land owner has filed affidavit which has been claimed to have been ignored by the courts below, the memo of appeal and submissions as have been recorded in the order impugned do not indicate that such a ground was ever urged and argued before the appellate court. In any case, in the face of revenue record, prima facie, the judgments as have been rendered by the court below can hardly be termed to be perverse.

5. The courts on the basis of prima facie material as has been produced on record, have found the plaintiff to be in possession of the property. In such a case, the *panchanama* which is of 2014 would hardly have any bearing. Perusal of the *panchanama* shows that it was during the course of court proceedings. Discretion as has been exercised by the trial court and confirmed by the appellate court appears to be adhering to the judicial principles and do not call for any interference.

6. Writ petition, as such, is rejected. However, petitioners are at liberty to seek expeditious disposal of the suit by making proper application.

7. It is further made clear that the observations as have been made hereinbefore do not at all reflect upon merits of the case and shall not be deemed to be so in any proceedings.

SUNIL P. DESHMUKH, J.

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