

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

WRIT PETITION NO.11386 OF 2015

Kisan s/o Shripatrao Lipne,
Age 75 years, Occu. Agri.,
R/o Shelgaon, Taluka Partur,
District Jalna

.. Petitioner

Versus

1. The State of Maharashtra,
through its Secretary
(Appeals) Revenue and Forest
Department, Mantralaya,
Mumbai - 32
2. Suman Ganesh Shejul,
Age 52 years, Occu. Household
and Agriculture,
R/o Ambegaon, Taluka Majalgaon
District Beed
3. Atmaram s/o Kisanrao Lipne,
Age 25 years, Occu. Agri.,
R/o Shelgaon, Taluka Partur,
District Jalna

.. Respondents

Mr S.P. Katneshwarkar, Advocate for petitioner
Mr A.V. Deshmukh, A.G.P. for respondent No.1
Mr B.R. Sable, Advocate for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 30th November 2015

PER COURT

Heard.

2. The order passed by respondent No.1 on 19th September 2015
in Appeal No.3914/P.K. 133/J-7/P.K. 961 (08)/2014/AVP is questioned in
the present petition.

3. It is the case of the present petitioner that the Deputy Commissioner, Aurangabad Division, Aurangabad, by exercising of revisional powers under Section 257 of the Maharashtra Land Revenue Code, 1966, while setting aside the order dated 9th January 2011, passed by Additional Collector, Jalna by restoring the order passed by the Sub Divisional Officer, Partur on 5th July 2010, has observed that the outcome of the dispute pertaining to suit property, the mutation shall stand in the name of present petitioner. According to the petitioner, once the learned Civil Court, while deciding the application Exh.5 in Regular Civil Suit No.95 of 2011 having recorded finding of possession in favour of present petitioner, the mutation entry ought to have been continued in the name of petitioner and as such, was rightly done by the order of Sub Divisional Officer, Partur and Deputy Commissioner, Aurangabad Division, Aurangabad.

4. It is required to be noted herein that the entitlement of the present petitioner to the suit property is subjudice in Regular Civil Suit No.95 of 2011. The said suit is initiated for declaration and injunction that the suit property is owned and possessed by present petitioner and the defendants - respondents have no title to the suit property, particularly pursuant to the alleged notarised partition deed.

5. It is also required to be noted that the mutation entry which was subject matter of appeal before the State Government was ordered in favour of the respondent No.2 herein by setting aside the order of Sub Divisional Officer, Partur and Deputy Commissioner, Aurangabad

Division, Aurangabad. The mutation in the name of present petitioner, based on 2010 injunction order was uncalled for particularly for the revenue authorities, when the issue is already subjudice before the competent Civil Court, that too at the behest of present petitioner. Unless the rights of parties are finally adjudicated in the Civil suit, the revenue authorities ought not to have take note thereof and the injunction for the purpose of disturbing revenue entries/mutation.

6. The above referred considerations were rightly weighed before the State Government while passing the order. In view thereof, no case for interference is made out. Writ Petition stands dismissed.

(N.W. SAMBRE, J.)

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