

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8156 OF 2014

SUBHASH NAGESH JADHAV
VERSUS
AMBADAS MADHAVRAO BARMAD

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Advocate for petitioner : Mr. Vibhute Sunil M.

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CORAM : V. K. JADHAV, J.

DATED : 23rd FEBRUARY, 2015

PER COURT :-

1. Heard the learned counsel for the petitioner.
2. The petitioner's suit for partition and separate possession was decreed on 02.02.2011 and the sale deed dated 06.07.2006 executed in favour of respondent, was declared as null and void. However, initially, on the basis of that sale deed, a mutation was effected in favour of the respondent and his name remained there in respect of suit land in the revenue record. The petitioner has preferred an appeal before the Additional Collector, Latur, however, the same came to be dismissed on 23.07.2013 with direction that the name of present respondent would remain in the Revenue record subject to decision of appeal preferred by the respondent, which is pending in the District Court. The said order is also confirmed by the

Deputy Commissioner, Aurangabad Division, Aurangabad.

3. The learned counsel submits that since the name of respondent remained in the Revenue record, he is taking undue advantage of the entry. Even the respondent has obtained loan on the basis of said entry from the State Bank of Hyderabad, Branch Usturi, Tq. Nilanga, District Latur.

4. On perusal of order passed by the Additional Collector, Latur, it appears that the said entry in the name of the respondent kept as it is, subject to the decision of the District Court, in the pending appeal preferred by the respondent. It is thus clear that the said entry in the Revenue record would be subject to decision of the District Court in appeal and only because of that entry in the Revenue record, the respondent is not entitled to take any advantage of said entry. The said order passed by the Additional Collector is also confirmed by the Deputy Commissioner, Aurangabad Division, Aurangabad. The District Court, on presenting appeal by the respondent, has stayed the effect and execution of decree passed in favour of the petitioner. In the light of this, the petitioner is always at liberty to file an appropriate application before the District Court pointing out such misuse of entries by the respondent and may seek interim relief during pendency of appeal from the District Court.

5. In view of this, no interference is required in the impugned order passed by the Deputy Commissioner, Aurangabad Division, as well as the order passed by the Additional Collector, Latur.

6. Writ petition is disposed of. No costs.

(V. K. JADHAV, J.)

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