

1. Heard Mr.S.A.Raheshirke, learned counsel for the petitioners, Mr.Vikas Mali, learned counsel for respondent no.4 and Ms Vaishali Nimbalkar, learned A.G.P for respondent no.6 at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the Judgment and order dated 5.10.2009 passed by the learned Civil Judge, Jr Dn., Tasgaon below Exhibits 1 and 59 in B.A.D. No.11 of 1965. By that order, the learned trial Judge ordered issue of possession warrant under Order 21, Rule 35 of C.P.C. in respect of land Gat No.289 (Survey No.92/2), situate at Nagaon Kavtheakand, Tal Tasgaon , District Sangli (for short, 'suit land').
3. By order dated 3.7.2015, leave to implead Collector, Sangli was granted. In that order, submissions advanced on behalf of the petitioners were recorded. By subsequent order dated 24.7.2015, at the request of Ms Nimbalkar, matter was adjourned

till today. She was given time to take instructions as to within what time Consolidation Officer-II Sangli will comply the communication dated 11.3.1966 addressed by the learned Civil Judge, Jr. Dn., Tasgaon to him. Ms. Nimbalkar will also take instructions as to within what time District Superintendent of Land Records, Sangli will take action and submit compliance report as per communication dated 27.12.2010 addressed by the Collector, Sangli. Ms Nimbalkar will also take instructions as to within what time the Collector, Sangli will complete the proceedings including variation of the scheme and submit report before the Executing Court. In pursuance thereof, Ms Nimbalkar tendered photocopy of communication dated 31.7.2015 addressed by the District Superintendent of Land Records, Sangli. The same is taken on record and marked "X" for identification.

4. Ms. Nimbalkar, upon taking instructions from Mr. Prakash Bhimrao Mane, Dy. Superintendent of Land Records, Tasgaon, Dist.-Sangli who is present in court, states that after completing all necessary formalities, necessary report will be submitted before Executing Court in terms of paragraph 2 of the order dated 24.7.2015 within 4 months from today. Mr. Rajeshirke submitted that application Exh.59 was not served on the judgment debtor. The Judgment debtor was also not heard before passing the impugned order. By the impugned order, the learned trial Judge ordered issue of possession warrant in respect of the

suit land. Mr. Mali fairly submitted that the petitioners were not heard before passing the impugned order.

5. In view thereof, impugned order cannot be sustained and as such liable to be set aside. Petition is disposed of in the following terms:

(i) Impugned order dated 5.10.2009 is quashed and set aside and Application Exh.59 is restored to the file of the trial Court. Mr Rajeshirke assures that within four weeks from today, the petitioner will file reply and serve copy in advance on the other side.

(ii) Consolidation Officer-II, Sangli will comply the communication dated 11.3.1966 addressed by the learned Civil Judge, Jr. Dn., Tasgaon, to him. The District Superintendent of Land Records will take action and submit compliance report as per the communication dated 27.12.2010 addressed by the Collector, Sangli. The Collector, Sangli, in turn, will complete proceedings including variation of scheme, if any, and submit report before Executing Officer. Let the entire exercise be done within 4 months from today in accordance with law.

(iii) After receipt of report, the learned trial Judge will hear parties and pass appropriate orders in accordance with law.

(iv) Rule is made absolute in the aforesaid terms with no order as to costs. Order accordingly.

(R.G.KETKAR, J.)