

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

MCA NO. 130/2015 IN WRIT PETITION NO. 4244 OF 2014

(Nehru s/o Panditrao Satpute & Ors. vs. The Collector, Nagpur & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
A.P. BHANGALE, JJ.
FEBRUARY 12, 2015.**

Shri Mendhe, learned counsel for the applicants/ petitioners agrees to argue the writ petition for admission.

Shri Kankale, learned AGP is appearing for Respondents No. 1 & 2.

We are satisfied with the personal affidavit of the learned counsel for the petitioners that he was prohibited for sufficient reasons from appearing in the matter on 06.01.2015. Hence, the order dated 06.01.2015 is recalled and Writ Petition No.4244 of 2014 is restored back to file.

WRIT PETITION NO. 4244 OF 2014

Heard.

The submissions of Shri Mendhe, learned counsel is, Respondent No. 3, who raised objection for mutation proceedings did not participate, did not appear

before the Naib Tahsildar and he did not substantiate his contentions. Hence, Will needed to be accepted and names of the petitioners should have been mutated.

The learned AGP invited our attention to a copy of plaint on record to show that the Civil Suit which challenges the said Will is already pending between the parties.

Shri Mendhe, learned counsel has pointed out that the Suit is not filed by Respondent No. 3 but by uncle of the petitioners viz. one Nivruti.

The Will is not a registered document. In this situation, as the civil dispute is already going on, we do not see any jurisdictional error or perversity in the approach of the Naib Tahsildar.

With liberty to the petitioners to take such other steps as are available to them in law, we dispose of the present writ petition. No costs.

JUDGE

JUDGE

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