

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

**WRIT PETITION NO. 3534 OF 2016**

1. Manmath S/o Vaijinath Jangam @ Godare,  
Age 30 years, Occupation : Agril.,
  2. Mahananda W/o Vaijinath Jangam @ Godare,  
Age 55 years, Occu. Household,
  3. Virbhadra S/o Vaijinath Jangam @ Godare,  
Age 34 years, Occupation : Agril.,
  4. Gangabai W/o Punjaram Lahankar,  
Age 38 years, Occu. Household,  
All R/o Dongarkada, Tq. Kallamnuri,  
District Hingoli
- .. Petitioners

**Vs.**

1. The State of Maharashtra,
2. The Principal Secretary/  
Officer on Special Duty,  
Revenue and Forest Department,  
Mantralaya, Mumbai-32.
3. The Divisional Additional Commissioner,  
Aurangabad Division, Aurangabad.
4. The Additional Collector,  
Hingoli, District Hingoli.
5. The Assistant Collector,  
Hingoli District Hingoli
6. The Tahsildar, Kallamnuri,  
Tq. Kallamnuri, Dist. Hingoli.
7. The Circle Officer,  
Dongarkada, Tq. Kallamnuri,  
District Hingoli.

8. The Talathi,  
Talathi Sajja Wadgaon / Jawala  
Tq. Kallamnuri, Dist.Hingoli.

9. Rama S/o Siddhoji Mundhe,  
Age 60 years, Occu. Agril.,  
R/o Hiwara/Jalwla, Tq. Kallamnuri,  
District Hingoli

.. Respondents

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Mrs. M.A. Kulkarni, Advocat h/f Mr. A.M. Kulkarni, Advocate for the  
petitioners

Mr. S.N. Kendre, A.G.P. for respondent nos. 1 to 8

Mr. S.S. Londhe, Advocate for the respondent no. 9

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**CORAM : SUNIL P. DESHMUKH, J.**  
**DATE : 28-04-2016**

**ORAL JUDGMENT :**

Rule. Rule made returnable forthwith. Heard finally with  
consent of the parties.

2. The facts in brief, can be narrated as under:

. Present respondent no.9 was plaintiff in regular civil suit  
no.85 of 1979 filed in the court of civil judge junior division seeking  
declaration of ownership and possession in respect of the property  
bearing survey no. 87/1 against the father of the present petitioners  
and another. The suit was decreed. Regular civil appeal carried  
therefrom failed. Even second appeal at the instance of the  
defendants failed before this High Court. Regular darkhast has been  
filed for execution of the decree of possession, pursuant to which

under a panchanama, possession of the suit property had been delivered to the plaintiff – respondent no.9. It also transpires that accordingly, the satisfaction of the decree has also been intimated to the civil court and the same has also been noted.

. With reference to aforesaid proceedings, the respondent no.9 had initiated proceedings before the revenue authorities for deletion of present petitioners' names appearing in the revenue record. The tahsildar declined the request and the said order was reversed in appeal before the sub divisional officer. The present petitioners aggrieved thereby, had been before the commissioner in revision. The revision was dismissed. Against that, the review was filed. That was also dismissed. Thereafter, second revision had been preferred before the State government, which had been dismissed observing that by the decree in civil suit no. 85 of 1979, entitlement of respondent no.9 has been upheld. The decree of ownership of 6 acre 15 guntha of survey no. 87/1 has been granted in favour of respondent no.9 and the decree also requires that the possession of an area of 2 acre 39 guntha from said survey number be given to the respondent no.9. The revenue proceedings in respect of the land had been taken into account and the chief secretary and officer on special duty has dismissed the revision stating that there is nothing wrong in the orders passed.

3. Learned counsel Mrs. Kulkarni h/f Mr. A.M. Kulkarni for the petitioners contends that Vajinath was in possession of the suit property till his death and after his death, the petitioners have been in possession of the suit property. Vajinath died on 1-5-2007 and, thereafter, entry of the name of the petitioners in respect of the subject matter has been taken in the revenue record. Whereas the contention of the respondent no.9 is that delivery of possession has been on 11-11-2005. She submits that this is clear indication that the possession receipt is merely a paper panchanama and nothing more as even thereafter the name of Vajinath continued to appear in the revenue record and after his death, the names of the present petitioners. As such, the request of deletion of their names could not have been considered by the revenue authorities.

4. Learned counsel for the respondents however contends that as a matter of fact the revenue entries were only paper record till the deletion of the petitioners' names from the revenue record. Execution of the decree had taken place long back and its satisfaction has been recorded by the court. This fact had not been taken note of by the revenue authorities and under the circumstances, deceased Vajinath's name initially continued and, thereafter, those of the petitioners. However, beyond paper record, said entries had no efficacy. Factual position is that the respondent no.9 has been duly put in possession of the suit property and in pursuance of the same, he

had applied for the deletion of the petitioners' names from the revenue record. He submits that even otherwise the petitioners cannot claim any right to the suit property. They have none and the same stands proved by the verdict of the civil court, which has remained intact till the High Court. There are no further proceedings taken by any of the parties before the Supreme Court. The decree of the trial court has merged into the orders passed by the High Court and as such, request for deletion of the names of the petitioners is legitimate and rightful.

5. Having regard to the aforesaid submissions and facts with regard to the litigation, which are beyond dispute, I do not think that the present case is such, wherein discretion should be exercised in favour of the petitioners. The authorities hitherto particularly, the collector, commissioner and the chief secretary have considered the facts properly and the legal effect of the orders passed from time to time. The petitioners even otherwise do not appear to have any independent right to the suit property.

6. The writ petition as such fails and is dismissed. Rule stands discharged.

**[SUNIL P. DESHMUKH]  
JUDGE**

arp/