

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

942 WRIT PETITION NO. 5447 OF 2016
WITH WP/5449/2016

VITTHAL RAJARAM KEKAN AND OTHERS
VERSUS
BHARAT MURLIDHAR KEKAN AND OTHERS

Shri. S.S. Thombre, Advocate, for petitioners.

Shri. A.S. Lomte, Advocate, for respondent Nos.1 to 5.

Shri. S.R. Yadav, Assistant Government Pleader, for
respondent Nos.6 and 7.

CORAM: T.V. NALAWADE, J.

DATE : 30 SEPTEMBER 2016

ORDER:

1) The first proceeding is filed to challenge the order made on temporary injunction application in Regular Civil Suit No.92/2013 by the Court of the Civil Judge, Junior Division, Dharur and the decision on Misc Civil Appeal No.30/2015 given by the District Court Majalgaon. The second proceeding is filed against the order on temporary injunction application in Regular Civil Suit No.94/2013 and the decision given on Misc Civil Appeal No.29/2015 which was pending in the District Court Majalgaon. Both sides are heard.

2) The present respondent, decree holder of Regular Civil Suit No.127/1977 wants execution of the decree of partition in respect of land Survey No.1/10 and land Survey No.18/3. The decree has become final. The two suits involved in the present matter, are filed for getting relief of the declaration that the said decree cannot be executed in respect of land Survey No.1/12 and Gat No.130.

3) In the suit, the decree was given in respect of aforesaid two survey numbers. If at all there is some mistake committed during implementation of the consolidation of holdings the persons who are owners of their respective portions can be protected by taking care that the decree is executed on the basis of old record like record of revenue survey numbers 1/10 and 18/3.

4) There are concurrent findings of the Courts below on the applications filed for relief of temporary injunction and those orders are passed on the basis of old revenue record. In view of this circumstance, this Court holds that no interference is warranted in the orders

made by the trial Court which are confirmed by the first appellate Court. With the aforesaid observations, the writ petitions are disposed of as dismissed.

Sd/-
(T.V. NALAWADE, J.)

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