

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5504 OF 2016
AND

CIVIL APPLICATION NO. 9997 OF 2016
IN WRIT PETITION NO. 10303 OF 2010

SHIVAJI GANESHRAO MUTKULE AND ANOTHER
VERSUS
SUMAN PRASAD RAUT AND ANOTHER

...
Advocate for Applicants : Shri Ghatge Mahesh V.
Advocate for Respondents : Shri Kalani P.N.

...
CORAM : RAVINDRA V. GHUGE, J.
Dated: May 04, 2016
...

PER COURT :-

1. At the very outset, learned Advocate for the applicant submits, on instructions, that as applicant No.2 Jayashri has become a major, in the event cultivation by auction is permitted, she will also be one of the auction bidders along with Ramprasad and respondents / Suman and Prasad.
2. By this application, it is prayed that the land strip of Shivaji be auctioned for cultivation until further orders in the pending litigation. It is pointed out that by an earlier order dated 26.8.2011 and then by order dated 22.6.2012, this Court had permitted the said auction for one year.
3. Shri Kalani, learned Advocate for the non-applicants opposes this application. Contention is that the continuation of Ramprasad Gulabrao as a guardian of Shivaji Ganeshrao is subject matter of CNA (RJE) No. 31 of 2009. Applicant No.2 Jayashri has also become major. For last three years, the land was not cultivated and hence this application be rejected.
4. Shri Kalani relies upon the affidavit-in-reply filed and submits that for the reasons set out in the affidavit-in-reply, the application be rejected.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2
CIVIL APPLICATION NO. 5504 OF 2016
AND
CIVIL APPLICATION NO. 9997 OF 2016

5. I have considered the submissions of the learned Advocates.
6. There is no dispute that the land strip of Shivaji Ganeshrao is uncultivated for the last three years. Neither would it cause any harm nor prejudice to any of the parties if the land is cultivated by auction for the year 2016-17.
7. In the light of the above, both these applications are allowed.
8. Fresh auction be conducted in respect of the said land Gut No.35 for a year 2016-17 for cultivation between the present parties. Jayashri Ganeshrao is also at liberty to bid for auction cultivation. The terms and conditions would be the same as detailed in the order dated 17.7.2009, passed below Exhibit 1, in Misc. Civil Appeal No.25 and 29 of 2009.
9. Hamdast is allowed.

(RAVINDRA V. GHUGE, J.)

...