

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1210 OF 2015

DR. MOHD. BADRUDDIN S/O MOHD. TAMIJODDIN  
VERSUS  
BANDU S/O RAMBHAU VEER AND ORS

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Advocate for Petitioner : Shri Kulkarni D.K.  
Advocate for Respondent 1 : Shri Gore R.V.  
APP for Respondent 3 : Shri Karlekar S.G.  
Respondent 2 : Served

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CORAM : RAVINDRA V. GHUGE, J.  
Dated: June 08, 2016

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PER COURT :-

1. The petitioner is aggrieved by the order dated 19.1.2015, passed by the learned Judicial Magistrate F.C. Paithan in Criminal Application No.14 of 2016.

2. The petitioner contends that respondent No.1, who is a resident of village Vadji, has misled the Court below vide his application filed under Section 13(3) of the Birth and Death Registration Act, 1969. Respondent No.1 has mis-represented that Asaram Bhagaji Nathuji Veer, a protected tenant, is his grand-father, who passed away on 5.1.1972 and that Rambhau Asaram Veer is his father, who has passed away on 14.7.1994. Actually, Asaram Bhagaji is not survived by any legal heir.

3. Shri Kulkarni strenuously submits on the basis of the 7/12 extract pertaining to land S.No. 180 in Gut No.413 at village Koli Bodakha, Taluka Paithan that the death entries ordered by the Court below are not in

relation to the protected tenant, but pertain to a different person namely, Ashruji Nathu Veer, who is a resident of village Vadaji of taluka Paithan. He submits on the basis of the revenue records that the impugned order has been wrongly passed since respondent No.2, on the basis of the impugned order, desires to lay his claim to the land belonging to the petitioner.

3. Shri Gore, learned Advocate appearing on behalf of respondent No.1 submits that after respondent No.1 had acquired an heirship certificate, the matter had reached this Court at the behest of the petitioner in Writ Petition No. 3075 of 2010. The said petition was disposed off by observing that the learned MRT has considered the certificate of heirship dated 7.9.2012 issued by Gram Panchayat, Vadaji along with several other documents and this Court did not find any error committed by the learned MRT in passing the order dated 22.9.2009.

4. He further submits that this Court has observed in paragraph No.6 of its order dated 19.8.2013 that whether the respondents are the heirs and legal representatives of Asaram can be gone into in RCS No.12 of 2009, which is still pending. He, therefore, submits that no interference is called for in the impugned order.

5. In rebuttal, Shri Kulkarni submits that by virtue of the impugned order, dated 19.1.2015, the death entry of Asaram Bhagaji Nathuji Veer and Rambhau Asaram Veer in the death registration record would come in way of the petitioner in RCS No. 12 of 2009.

6. I have considered the submissions of the learned Advocates.

7. It is trite law that the decision of the Civil Court would bind the parties in so far as the claim with regard to a right, title or interest in the said land is concerned. This Court has observed in paragraph Nos.5 and 6 of the order dated 19.8.2013 passed in Writ Petition No.3075 of 2010, filed by this petitioner, that the issue with regard to whether the respondents are the legal heirs and legal representatives of Asaram, would be decided by the Civil Court. Said proceedings are still pending.

8. In the light of the above, ends of justice would be met by directing that the impugned order dated 19.1.2015 passed in Criminal Misc. Application No.14 of 2015 shall be subject to the result of RCS No.12 of 2009.

9. In the light of the above directions, this petition is, therefore, disposed off. Needless to state, the decision of the trial Court in RCS No.12 of 2009 shall be binding upon the parties.

( RAVINDRA V. GHUGE, J. )

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