

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1255 OF 2016

NIYOJIT VIKRANT SAHAKARI
GRUH NIRMAN SANSTHA, SANGLI
THROUGH CHIEF PROMOTOR,
VITHALRAO DESAI AND ORS

...Petitioners

Versus

SHANKAR TATYASAHEB DORLE
(DECD) THROUGH LRS AND ANR

...Respondents

....

Mr. Ramdas A. Shelke, Advocate for the Petitioners.

Mr. Anilkumar K. Patil, Advocate for Respondent No.1A.

....

CORAM : R. G. KETKAR, J.

DATE : 25th FEBRUARY, 2016

P.C.

1. Heard Mr.Shelke learned Counsel for the petitioners and Mr. Anilkumar Patil, learned Counsel for respondent No.1A, at length.

2. In view of order dated 1.2.2015, the petition is disposed of finally at the stage of admission.

3. Rule. Mr.Patil, learned Counsel for the respondent No.1A waives service. At the request and by consent of the

parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

4. By this petition under Article 227 of the Constitution of India, petitioners have challenged the judgment and order dated 10.12.2015 passed by the learned 4th Joint Civil Judge, Junior Division, Sangli below exhibit-100 in Regular Darkhast No.106 of 2013. By that order, the learned trial Judge partly allowed the application made by the petitioners, hereinafter referred to as decree-holders, made under Order 6, Rule 17 of the Code of Civil Procedure, 1908 and permitted deletion of portion in paragraphs 6(e) and 8(g) of Regular Darkhast No.106 of 2013. The learned trial Judge however, rejected the amendment by which the decree-holders proposed impleadment of judgment debtors No.3 to 6 on the ground that judgment debtor No.2 had sold his share in the suit property in favour of the proposed judgment debtors on 02.05.2009.

5. Mr. Shelke submitted that learned trial Judge did not assign any reasons while rejecting the prayer made by the petitioners / decree holders for impleadments of subsequent purchasers who are proposed to be impleaded as judgment

debtors Nos.3 to 6. He further submitted that learned trial Judge also wrongly rejected the prayer made by the decree holders for amending the boundaries. Mr. Patil was not in a position to show that any reasons was given by the learned trial Judge for rejecting the prayer made by the decree holders for impleading the subsequent purchasers.

6. In view thereof, petition is partly allowed. In so far as permitting deletion of paragraph 6(e) and 8(g) of regular darkhast No.106/2013 is concerned, order is maintained. Learned trial Judge will now decide afresh following issues :

- i. Whether decree holders are entitled to implead subsequent purchasers as judgment debtor Nos.3 to 6;
- ii. Whether decree holders are entitled to amend the boundaries / description of the suit property.

7. Learned Counsel appearing for the parties states that the parties will appear before the trial Court on 7.3.2016 and for that purpose no fresh notice be issued to them. Learned trial Judge is requested to decide the application as expeditiously as possible and preferably within four weeks from

the date of appearance of the parties. All contentions of the parties on merits are expressly kept open. Rule is made absolute in afore said terms.

(R. G. KETKAR, J.)

Deshmane (PS)