

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6890 OF 2016

Mr. Sandip Dattatray Muluk & Ors.Petitioners
V/s.
1) Mrs. Surekha Dattatray Muluk & Ors.Respondents

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Mr. Pavan S. Patil, Advocate for the petitioners.
Mrs. V.S. Nimbalkar, AGP for respondent no.3.

CORAM :- SMT. R.P. SONDURBALDOTA, J.
DATED :- 20TH JULY, 2016.

P.C. :-

1). This petition challenges the order dated 25th April, 2016 by which the Additional Commissioner, Pune Division, Pune rejected the application for interim reliefs made by the petitioner in RTS/Revision/Pune/140/2016.

2). Respondents no.1 and 2 had preferred RTS Revision No.98 of 2013 before the Sub-Divisional Officer, Khed, Rajput Nagar under Section 257 of the Land Revenue Code for mutation of the revenue records to include their names as the heirs of deceased, Dattatray Muluk in respect of the properties in question. The Sub-Divisional Officer allowed the application in part and permitted mutation in favour of respondent no.2, the son of the deceased on the basis of the succession certificate obtained by him in respect of certain movable properties. As there was no succession certificate

obtained by respondent no.1, wife, her application was rejected.

3). The petitioners allege that petitioner no.2 is the first wife of the deceased and respondent no.1 claims to be his second wife. According to them respondent no.1 has failed to establish relationship with the deceased. Therefore respondent no.2, her son could not have been accepted as the heir of the deceased by the Sub Divisional Officer. The petitioners had preferred appeal being RTS No.2/2014 in the Court of Additional Collector, Pune. Their appeal was dismissed by the order dated 7th April, 2016 and hence the petitioners have carried the order to the Additional Commissioner, Pune.

4). Mr. Patil, the learned Advocate appearing for the petitioner states that, during the pendency of the appeal before the Additional Collector, there was an interim stay granted by the Additional Collector of the order passed by the Sub-Divisional Officer and that the Additional Commissioner ought to have continued the order of stay pending the hearing of the revision before him. I do not find merit in the argument because there is already concurrent finding by two competent authorities on the issue. Further the order passed by the Sub-Divisional Officer is based on the Succession Certificate issued by a competent Court of law to respondent no.2. In that circumstance, there is no case made out for interim stay of that order. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)