

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2182 OF 2015
ALONG WITH
NOTICE OF MOTION NO.209 OF 2016

Gopal Motwane & Ors.	 Petitioners/Applicants
V/s.	
The Municipal Corporation of Greater Mumbai & Ors.	 Respondents

Mr. Vinay Sanglikar, a/w. Mr. Virendra Pereira,
Mrs. Devika Bhosle and Mr. Jahan A. Chokshi,
i/by M/s. Divya Shah Associates, for the
Petitioners/Applicants.

Mr. H.C. Pimple for Respondent Nos.1 to 3-BMC.

Ms. P.H. Kantharia, G.P., and Mr. A.H. Gokhale,
A.G.P., for Respondent Nos.4 and 5.

Ms. Kathleen Lobo, i/by M/s. Khaitan & Co., for
Respondent Nos.6 and 7.

CORAM : S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 4TH MAY, 2016.

P.C. :

1. The Petitioners' simple and innocuous request for subdivision of a property having not been granted, that this Writ Petition.

2. It is very clear from the averments in the Petition, which are not disputed by the Respondent-State, that a direction to carry out such a subdivision was, indeed, issued but that has not been given effect to. It

has also been clarified in the affidavit-in-support of the Notice of Motion that the Petitioners are senior citizens. True it is that there is a partition suit pending, being Suit No.131 of 2008, between the Petitioners and Respondent Nos.6 and 7. However, as is clear from several Judgments of the Hon'ble Supreme Court of India that what the Revenue Officers do in relation to the revenue entries does not, in any manner, affect the issue of right, title and interest in immovable properties, that has to be decided by a competent Civil Court. An adjudication in that Civil Court can proceed irrespective of such entries or subdivision. The Civil Court is not precluded in law from passing appropriate orders and in accordance with law when it decides the suits and particularly like a partition suit.

3. With this clarification, we direct that the application for subdivision made by the Petitioners shall be granted and necessary entries be made in the Property Register Cards as expeditiously as possible and within a period of eight weeks from the date of receipt of a copy of this order.

4. Writ Petition is disposed of with the above directions.

5. In view of the above, Notice of Motion No.209 of 2016 pending in the Petition does not survive and the same is disposed of as such.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [S.C. DHARMADHIKARI, J.]