

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 7325 OF 2014

1. Abdul Hamid Sk. Amir, Aged about 48
R/o. Panchashil Nagar, Wani, Tq. Wani.
2. Sheikh Nasir Sk. Amir, Aged about 45
R/o. Mubarak Nagar, Arni, Tq. Arni,
Distt. Yavatmal.
3. Taherabi W/o. Kabiruddin, Aged about
60 R/o. Vasant Nagar, Pusad, Tq. Pusad
Distt. Yavatmal.
4. Shaminurbi W/o. Ibrahim Khan, aged
about 57 R/o. Vasant Nagar, Pusad,
Tq. Pusad, Distt. Yavatmal.
5. Arifunnisa W/o. Sk. Abdul, Aged about
53, R/o. Khaki Chowk, Wani, Tq. Wani,
Distt. Yavatmal.

.... **PETITIONERS.**

// **VERSUS** //

1. The Additional Commissioner,
Amravati Division, Amravati.
2. The District Collector, Yavatmal,
Distt. Yavatmal.
3. The Sub Divisional Officer,
Darwha, Distt. Yavatmal.
4. The Circle Officer, Kalgaon,
Tq. Digras, Distt. Yavatmal.

5. The Talathi, Kalgaon, Tq. Digras,
Distt. Yavatmal.
6. Nasimoddin Sharifoddin, Aged
about major, R/o. Kalgaon, Tq.Digras,
Distt. Yavatmal.

.... RESPONDENTS.

Shri A.I. Sheikh, Advocate for Petitioners.
Ms H.N. Prabhu, A.G.P. for Respondent Nos. 1 to 5.
Shri A.S. Deshpande, Advocate for Respondent No.6.

CORAM : Z.A.HAQ, J.
DATED : JULY 18, 2016.

ORAL JUDGMENT :

1. Heard learned advocates for the respective parties.
2. **RULE.** Rule made returnable forthwith.
3. The petitioners filed appeal before the Sub Divisional Officer challenging the mutation entry taken by the Circle Officer entering name of the respondent No.6 in the revenue records. The Sub Divisional Officer dismissed the appeal. The petitioners challenged the order passed by the Sub-Divisional Officer before the Additional Collector in appeal which was allowed. The Additional Collector set aside the order passed by the Sub-Divisional Officer, cancelled the entry dated 21st March, 1991 and directed the Circle Officer to conduct inquiry and then mutate the entries. The

respondent No.6 challenged the above order in revision before the Additional Commissioner. The learned Additional Commissioner has dismissed the revision petition. However, the order passed by the Additional Collector and the Sub Divisional Officer are set aside and it is directed that as the respondent No.6 claims on the basis of the oral gift he is required to get the issue adjudicated before the Civil Court and the entries in the revenue record will have to be mutated as per the order that may be passed by the Civil Court. The petitioners being aggrieved by the order passed by the Additional Commissioner have filed this petition.

4. It is submitted by the learned advocate for the respondent No.6 that Regular Civil Suit No. 61 of 2014 is filed by the respondent No.6 and it is pending. The learned advocate for the petitioners has submitted that civil suit is filed praying for decree for permanent injunction and the respondent No.6 has not prayed for decree for declaration about his title on the basis of the alleged oral gift. The contesting parties have not placed any material on record to show whether the issue about the title of the respondent No.6 on the basis of the alleged oral gift is framed by the trial Court.

5. In the above circumstances, the following order is passed:

- i) If the claim made by the respondent No. 6 on the basis of the alleged oral gift is adjudicated by the Civil Court in

Regular Civil Suit No. 61 of 2014, the Revenue Authorities will take entry as per the judgment of the Civil Court.

ii) If the claim is not adjudicated by the Civil Court in the above civil suit, it would be open for the Revenue Authorities to consider the question of mutation of entry in the revenue record on the basis of the claims made by the parties before it, according to law.

iii) Till appropriate entry is taken by the Revenue Authorities, a note be put-up in the revenue record that Regular Civil Suit No. 61 of 2014 is pending and note shall also be taken about this judgment.

With the above observations, the petition is disposed of. In the circumstances, the parties to bear their own costs.

JUDGE

RRaut..

C E R T I F I C A T E

I certify that this Judgment uploaded is a true and correct copy of original signed Judgment.

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