

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4003 OF 1994

Nagorao s/o Yeshwantrao Shinde

Petitioner

Versus

Karbhari s/o Narayan Nirmal & others

Respondents

Mr. S.A. Patil h/f Mr. V.D. Salunke advocate for the petitioner

Mrs. M.A. Kulkarni advocate for Respondent No.1

Mr. N.T. Bhagat, AGP for respondent Nos.2 to 5

CORAM : **RAVINDRA V. GHUGE, J**

(Date : 20th July, 2017.)

PER COURT :-

1 I have heard learned Advocates for the respective sides at length.

2 While admitting this petition on 29.6.1995, this Court has granted interim relief to the parties in the nature of maintaining *status-quo* with regard to their respective possessions of the land.

3 The petitioners and the respondents are relatives. RCS No.172/70 was preferred with regard to the partition of the said land. Litigating sides compromised in a way that 13 acres 23 gunthas in survey No.107/2008 were handed over by the

petitioner to the original respondent No.1 Karbhari Nirmal and 1 acre and 24 gunthas came to the share of the deceased Nayarayan Y. Shinde. The suit was decreed on 4.12.1970, on the basis of a compromise and the litigating sides were given the possession of their respective shares.

4 Learned Advocates for the litigating sides submit on the basis of the record that the litigating sides were put in possession on the basis of the compromise decree and they have been in possession ever since and are cultivating their respective agricultural lands. They submit that, in so far as the actual portion of the lands are concerned, there is no dispute between the litigating sides. It is only that the respondents found an error in the mutation entry No.331 which was registered on 15.1.1977, as the respondents felt that there was mistake in the mutation entry and hence, they approached the S.D.O.. The appeal was allowed by order dated 15.5.1985 and directions were issued to correct the mutation entry. The petitioners approached the Additional Collector, who dismissed the proceedings on 18.11.1992. Then they approached the Additional Commissioner, who dismissed the revision on 12.8.1994.

5 It is informed by the learned counsel for the respective sides that the petitioners have preferred RCS No.252/83 with

regard to the dispute about the mutation entry. Both are unaware on account of lack of instructions as to whether the said suit has been finally decided or not and what has actually occurred with that limb of litigation.

6 This Court in the matter of **Shrikant R. Sankanwar & others versus Krishna Balu Naukudkar** (2003 (3) BCR45) has concluded that the mutation entries are merely for fiscal purpose and do not decide the right or title or interest of any party. The Civil Court alone has the authority to adjudicate upon the rights of the parties and the decision of the Civil Court would be binding upon the revenue officers as far as the revenue entries are concerned.

7 Considering the above and the fact that there are concurrent findings, this petition is disposed of. The *status-quo* as directed by this Court with regard to the possession of the parties by order dated 29.6.1995 shall continue and more so in the light of the fact that the litigating sides state that they have no dispute about the actual portion of the land that has been allotted to them .

8 Needless to state that the revenue authorities shall carry out fresh mutation entry after the verdict of the Civil Court in RCS

No.252/1983. The said suit shall be decided by the Trial Court as expeditiously as possible and preferably on or before the 29th day of December, 2017, if not already decided.

9 Rule is discharged.

(RAVINDRA V. GHUGE , J)

vbd