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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8575 OF 2017

Mallikarnun s/o Sangappa Kalyani
Age – 54 years, Occ – Agriculture
R/o Tagarkheda, Taluka – Nilanga
District – Latur

PETITIONER

VERSUS

1. Dhullappa Madhavrao Biradar
Age – 54 years, Occ – Agriculture
R/o Tagarkheda, Taluka – Nilanga
District – Latur
2. The Sub Divisional Officer, Nilanga
Taluka – Nilanga, District – Latur
3. The Additional Collector, Latur
Taluka and District – Latur
4. The Additional Commissioner,
Aurangabad Division, Aurangabad

RESPONDENTS

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Mr. Mahesh P. Kale, Advocate for the petitioner
Mr. Y. G. Gujrathi, AGP for respondent - State

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 10th JULY, 2017

ORAL JUDGMENT :

1. Heard learned advocate for the petitioner. He submits that on the basis of 1974 sale deed movement had been belatedly made and mutation entry No. 2589 had been taken in favour of

purchaser. According to the instructions of learned advocate, the sale deed had been nominal one and no actual transfer of title had taken place. He further refers to that the Tahsildar and Sub Divisional Officer in the first attempt had ruled against the purchaser, however the Collector had remanded the matter and after remand the Sub Divisional Officer, Nilanga had once again cancelled Mutation Entry bearing No. 2589. However, his order was set aside in the appeal therefrom at the instance of the petitioner. A further appeal by petitioner had also failed before appellate authority and so was the case in revision before the State government. He submits that taking disadvantage of these failures, his possession over suit land is getting disturbed at the instance of respondents. He further fairly refers to that a civil litigation questioning legality and validity of sale deed has been instituted by petitioner, which is pending.

2. Learned advocate, therefore, urges for passing orders facilitating his claimed possession over the suit property.

3. Countering aforesaid submissions, learned AGP refers to that all the authorities hitherto have decided against the petitioners. He submits that sale deed is a document *inter vivos* and pursuant to the provisions of Maharashtra Land Revenue

Code, it is incumbent to take requisite entry in respect of such registered instrument, which has accordingly been taken. He further points out that not only decisions have been in favour of the purchaser, but even the petitioner's attempt to have temporary injunction issued against the purchase before civil court has failed.

4. Looking at aforesaid and the nature of proceedings which have been before the revenue authorities, which largely are considered to have efficacy for fiscal purposes, it does not appear to be a case wherein powers under Articles 226 and 227 of the Constitution of India are required to be invoked, while the authorities have observed that fate of the entries would depend on the decision in the civil court.

5. Writ petition, as such, is not entertained and is rejected with no order as to costs.

[SUNIL P. DESHMUKH, J.]