

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4437 OF 2016

TRIMBAK BHIKAJI KHARAT AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Shri V.S. Undre.
AGP for Respondent No. 1 to 4 : Shri N.T. Bhagat.
Advocate for Respondent No. 5 : Shri D.K. Rajput.
Advocate for Respondent Nos. 7, 8 & 10 : Shri S.S. Thombre
h/f Shri R.V. Gore.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 18th July, 2017

ORAL ORDER :

1. The petitioners are aggrieved by the interlocutory order dated 18/12/2015, passed by the Additional Commissioner, Aurangabad/respondent No. 1 herein, by which, an application for intervention filed by Pratibha Raju Wagh has been allowed. The petitioners are also aggrieved by the filing of the Review Petition by Narayan Mhatarba Vaidya along with two others, on the ground that the Review Application is not maintainable.

2. I have heard the learned advocates for the respective

sides. Shri Thombre, learned advocate for respondent Nos. 7, 8 and 10, prays for the dismissal of this petition with costs.

3. Considering the order that I intend to pass, I am not required to advert to the entire submissions of the litigating sides. Suffice it to say that the petitioners are three brothers. One Tukaram Dhondiba Kharat was the original owner of the lands at issue. He had only one daughter. By a registered Will Deed, he allotted two shares of his land to the three petitioners who were his nephews and allotted one share to his daughter Taibai. On the basis of the same, Taibai and her mother, after submitting the succession certificate, have convinced the revenue authority to draw a mutation entry No. 804 on 16/10/2000 and got their names entered in the entire suit property, in place of deceased Tukaram.

4. The petitioners preferred an appeal before the S.D.O., Partur and the same was allowed by order dated 11/11/2002. The revenue entries were cancelled.

5. Taibai and her mother approached the Additional Collector in Appeal and by judgment dated 25/09/2003, the appeal was allowed and the mutation entry was suspended. The petitioners approached respondent No. 1 and by judgment dated 15/03/2013, the revision was partly allowed and a re-enquiry was directed by setting aside all the earlier orders including the mutation entry.

6. In the meanwhile, Taibai and her mother sold a portion of the suit property to Abdul Hanif Abdul Reheman. He in turn sold it to Narayan Mhatarba Vaidya, Vijay Bhimrao Kachare, Datta Damodhar Bhile and Pratibha Raju Wagh. Barring Pratibha Raju Wagh, the other three new purchasers filed Review Petition which is pending before respondent No. 1. The petitioners are aggrieved because Pratibha Raju Wagh has been permitted to intervene in the Review Petition.

7. It is undisputed that the three, out of the four new purchasers have moved the Review Petition before respondent No. 1. Whether the petition is maintainable or not, is a matter

to be decided by the said authority. Pratibha Raju Wagh is one amongst the four purchasers who initially did not join the three Review Applicants. When the Review Application at the behest of three out of the four purchasers is being considered, respondent No. 1 has not committed any error in permitting the fourth purchaser also to join the proceedings since the fate of all these purchasers depends upon the fate of the Review Petition. All of them would stand or fall on their own feet in the matter.

8. Considering the above, this petition, being devoid of merits is, therefore, dismissed.

9. Needless to state, all contentions of the litigating sides are kept open, to be canvassed before respondent No. 1. As the petitioners have not yet filed their written say to the Review Application, they are at liberty to do so and respondent No. 1 would consider all the contentions of the litigating sides.

(RAVINDRA V. GHUGE, J.)

