

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5002 OF 2016

Rekha @ Surekha w/o Baswaraj
Patil, age: 36 years, Occ: service,
Neharunagar, Akkalkot Road,
Murum, Tq. Omerga,
District Osmanabad, through
its Power of Attorney Holder
Basawaraj s/o Annarao Patil,
age: 45 years, Occ: Business,
Neharunagar, Akkalkot Road,
Murum, Tq. Omerga,
District Osmanabad.

Petitioner

Versus

01 Appasaheb s/o Dhanappa Mundase,
age: 40 years, Occ: Agriculture,
R/o Murum, Tq. Omerga,
District Osmanabad.

02 Vijaykumar s/o Dhanappa Mundase,
age: 35 years, Occ: Agriculture,
R/o Murum, Tq. Omerga,
District Osmanabad.

03 Rajendra s/o Dhanappa Mundase,
age: 30 years, Occ: Agriculture,
R/o Murum, Tq. Omerga,
District Osmanabad.

04 The Chief Executive Officer,
Municipal Council,
Murum, Tq. Omerga,
District Osmanabad.

Respondents

Mr.V.R.Awate, advocate holding for Mr.S.K.Mathpati, advocate for the
petitioner
Mr.N.V.Gaware, advocate for Respondents No.1 to 3.

CORAM : S.B.SHUKRE, J.

DATE : 08th February, 2017

ORAL JUDGMENT :

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of contesting parties i.e. learned Counsel for the petitioner and learned Counsel for Respondents No.1 to 3. There is no need to issue notice to Respondent No.4, not being the contesting party.

2 On perusal of the impugned order passed by the learned District Judge on 04.04.2016 in Misc. Civil Appeal No.02 of 2016, I do not see any perversity or arbitrariness. The view taken by the learned District Judge is based upon the facts borne out from the record and this Court, not being an appellate Court, cannot enter into the arena of appreciation of facts at this stage. This Court has power to interfere with the order only if it is seen that the view taken by the Court below is illogical or perverse and not based upon the material available on record. Such is not the case here. The learned District Judge has rightly found that the petitioner has not explained as to how she became owner and possessor of disputed plot admeasuring 15' x 10'. He was also right to have found that after obtaining order of temporary injunction in her favour, original plaintiff, by filing an application to the Chief Officer, Municipal Council on 16.02.2016 got entry of the plot admeasuring 22' x 30' recorded and mutated in her name and this only showed that the plaintiff could not establish her lawful right in respect of the disputed property. Such being the facts, I see no merit in the petition.

3 Writ Petition is dismissed with costs. Rule discharged.

S.B.SHUKRE
JUDGE

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