IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11080 OF 2017

RAOSAHEB DASHRATH GAIKWAD AND OTHERS
VERSUS
KALAWATI BABURAO GAIKWAD AND OTHERS
...
Advocate for Petitioners : Shri Sapkal Sandip R.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th September, 2017

Per Court:

1 The Petitioners, by this petition, have put forth a substantive prayer in terms of the prayer clause 13-B, which reads as under:-

> "*(B) To quash and set aside the order dated 25.05.2017 passed by the Additional Commissioner, Nashik in RTS Revision No.10/2016 which has confirmed the order dated 22.08.2005 passed by the Tahsildar, Newasa and order dated 31.01.2009 passed by the Sub Divisional Officer, Shrirampur in RTS Appeal No.130/2005 and order dated 20.07.2010 passed by the Additional Collector in Second RTS Appeal No.78/2009.*"

2 The learned Advocate for the Petitioners submits that all the four impugned orders are unsustainable and bad in law. The Petitioners have no grievance about the judgment delivered by the competent court in partitioning the agricultural lands between the litigating sides. Each one

has been granted 1/8th share in the property. The dispute is that the Tahasildar, Newasa, by order dated 22.08.2005, has wrongly carried out the allocation of portions of the agricultural land, as per the shares received by each of the litigating sides, in an incorrect manner. Such allocation of shares, which is commonly known as "Vatap Takta" (Partition Chart), has not been done seriously. A casual attitude is reflected from the conduct of the Tahasildar.

3 The learned Advocate further submits that the irrigated portion of the land has been allocated to other relatives. The Petitioners have not been granted such portions of the irrigated land. So also, the Well existing in the agricultural land at issue, has gone to the share of the Respondents. Neither the Tahasildar, nor the Sub Divisional Officer, nor the Additional Collector, nor the Additional Commissioner have considered the contentions of the Petitioners in proper perspective.

4 The learned Advocate draws my attention to the ten grounds that have been formulated in the memo of the petition, to contend that the measurement of the sub-division is not properly done and the Taluka Inspector of Land Records (TILR) has not sub divided the suit lands as per the rules and procedure applicable. Section 85 of the Maharashtra Land Revenue Code, 1966 and the Maharashtra Land Revenue (Partition of Holdings) Rules, 1967 have been violated.

5 Upon considering the submissions of the learned Advocate for

the Petitioners, I have gone through the petition paper book and the impugned orders.

6 It appears that the Tahasildar, while carrying out the allocation of shares and preparation of the "Vatap Takta", has considered the contentions of each litigating side. After the "Vatap Takta" was prepared, the parties were made aware of it and thereafter, the allotment of shares has taken place. Each party has been granted about 0.66 R of land.

7 The record also reveals that the TILR was appointed to inspect the land and submit the details. Section 85 of the Maharashtra Land Revenue Code, 1966 was kept in view and the allotment was done by handing over 0.66 R land in favour of Respondent Nos.1 to 4. There is no dispute as regards the shares of land except that the Petitioners claim that they should be given the irrigated portion of the land.

8 The TILR has indicated in his report that there is no Well in the said land as is contended by the Petitioners. Though the shares of these litigating sides were decided by the competent court, they are still litigating for the last about 12 years.

9 Upon considering the contentions of the Petitioners and the conclusions set out in the impugned orders, all of which are concurrent findings, I do not find that the impugned orders could be termed as being perverse or erroneous, merely because a different view could be possible.

10 In the light of the above, this Writ Petition being devoid of merit is, therefore, dismissed.

kps (**RAVINDRA V. GHUGE, J.**)