

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.10489 OF 2016

01 Parasharam Devram @ Devrao
Patil (Khairnar), age: 82 years,
Occ: Agriculturist;

02 Sau.Chandrabhaga Parasharam
Patil (Khairnar), age: 72 years,
Occ: Agril.;

03 Yogesh Jagannath Patil (Khairnar),
age: 27 years, Occ: Agril;

04 Madhukar Jagannath Patil
(Khairnar), age: 43 years,
Occ: Agril.;
All R/o Bhongaon, Tq. Sakri,
District Dhule.

Petitioners

Versus

01 Sanjay Sakharam Patil,
age: 48 years, Occ: Agri & Service,

02 Abasaheb Sakharam Patil,
age: 46 years, Occ: Agri & Service,

Both R/o Bhongaon (Bhondgaon),
Tal.Sakri, District Dhule.

Respondents

Mr.P.R.Katneshwarkar, advocate for petitioners
Mr.Amol S. Sawant, advocate for both Respondents.

CORAM : S.B.SHUKRE, J.
DATE : 18th January, 2017

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 On going through the impugned order, it can very well be seen that the findings therein have been recorded on the basis of revenue record, particularly there is mutation entry no.601 in respect of area in possession of respondents has been stated to be three hectares 32 ares, although the area in possession of respondents, as per sale deed dated 10.04.1978, is 2 hectares 35 ares. Mutation Entry No.601 has been recorded after an order, to that effect, was passed by the Deputy Superintendent of Land Records, Sakri, District Dhule, which order was carried in appeal by the petitioners and which was set aside by the District Superintendent of Land Records on 26.10.2016. Subsequently, this order was challenged by the Respondents before the Deputy Director of Land Records, Nasik and the learned Deputy Director has stayed effect and operation of the order dated 26.10.2016. The position that obtains now is that Mutation Entry No.601 remains operative as of now. This being the position, at this stage, no perversity in the impugned orders could be seen. However, the scenario may change just in case Mutation Entry No.601 is set aside by the Deputy Director of Land Records in the appeal, which is pending for consideration. If such an event occurs and there is material change of circumstances entitling the petitioners to approach the Courts below for verifying the orders passed by them, liberty, in that regard, needs to be given to the petitioners.

3 In the result, I find that on the basis of facts and circumstances noted above, there is no merit in the petition and it

deserves to be dismissed by granting liberty to the petitioner to approach the Courts below for passing orders afresh in case Mutation Entry No.601 loses its effect in law.

4 With these observations, writ petition is disposed of. It is needless to mention that the appellate authority i.e. learned Deputy Director of Land Records would proceed to dispose of appeal pending before him, as expeditiously as possible. So far as factum of issue of encroachment is concerned, all contentions of rival parties are kept open. Rule discharged. No costs.

S.B.SHUKRE
JUDGE

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