

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2858 OF 2017

1. Babruwan S/o. Vithoba Poulkar,
Age : 54 years, Occu. : Agri.,
2. Govind S/o. Vithoba Poulkar,
Age : 49 years, Occu.: Agri.,
3. Vithoba S/o. Sambha Poulkar,
Age : 79 years, Occu. : Agri.,

All R/o. Bibril,
Tq. Shirur Anantpal, Dist. Latur

.. Petitioners
(Orig. Judgment Debtor)

Versus

Limbaji S/o. Hanmanta Poulkar,
Age : 46 years, Occu. : Agri.,
R/o. Bibril, Tq. Shirur Anantpal,
Dist. Latur

.. Respondent

...
Mr. T.M. Venjane, Advocate for petitioners
Mr. N.V. Gaware, Advocate for respondent
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 05-09-2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Heard learned counsel for the appearing parties finally,
by consent.

3. The petition is moved against order dated 29-07-2016 passed in regular darkhast no. 13 of 2016 pending before learned 2nd joint civil judge junior division, Nilanga, Dist. Latur.

4. Learned counsel for petitioner contends that from original claim of the plaintiff, for an area of about 3 *Hectare* and 86 *Are*, the same came to be decreed only to the extent of 3 *Hectare* and 71 *Are*, since 15 *Are* land had been acquired for some project. The decree is of the year 2003. The matter had been put in execution in the year 2013 (re-numbered in 2016). During the pendency of the *darkhast*, measurements of suit land had been carried out, upon request of decree holder and report accordingly had been submitted at Exhibit - 30, showing that decree holder was put in possession to the extent of 3 *Hectare* and 71 *Are*. He submits that subsequently application at exhibit - 31 had been moved for demarcation of the whole land of 3 *Hectare* and 86 *Are*. Learned counsel submits that such an action is not permissible since 15 *Are* land has already been acquired by the State.

5. Learned counsel for respondent Mr. Gaware, however, submits that petition has been unnecessarily moved, since the order passed on exhibit - 31 is amply clear. He submits that in any case, the petitioner's interest is not at stake as far as 3 *Hectare* and

86 Are in *gat* no. 32 is concerned. His interest is unlikely to be hampered in any way, however, it appears that petitioner has something up his sleeve and, therefore, petition has been moved. He submits that in view of the order, no interference be caused.

6. Having heard learned counsel as aforesaid, there is no particular dispute about the factual position involved in the matter and there is report at Exhibit - 30. Perusal of the impugned order shows that in order to settle the dispute between parties, it would be just and proper, to demarcate the boundaries and hence the court has directed to issue letter to court commissioner for fixation of boundaries as reported below Exhibit - 30. In view of the same, I do not think this is a case wherein interference is called for. Writ petition is not entertained and is dismissed.

7. Rule is discharged.

[SUNIL P. DESHMUKH]
JUDGE

arp/

Anil
Rameshrao
Pundlik

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