

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

47 CIVIL APPLICATION NO. 5572 OF 2018
IN WP/1986/2015

SANJAY CHANDRAKANT SIDANKAR AND OTHERS
VERSUS
JANUNABAI BABULAL SHARMA AND OTHERS

...
Advocate for Applicants : Mrs. Dube Anjali (Bajpai)
Mr. A K Gawali, advocate for Petitioner In WP

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CORAM : V.K.JADHAV, J.
DATE : MAY 2, 2018

PER COURT

This is an application filed for recalling/modification of the order, dated 21.3.2018.

2. By order, dated 21.3.2018, the Writ Petition was partly allowed and the impugned order, passed by the learned Ad hoc District Judge, Ahmednagar came to be modified to the effect that the defendant nos. 1, 2A to 2C, 3 and 7A, 8, 11 to 13 and 15 to 17 are hereby restrained from creating third party interest in respect of the suit property Gat No. 2422, admeasuring

39 R, situated at Shrigonda and further the defendants as aforesaid are restrained from raising any sort of construction on the property as mentioned above, till the disposal of the suit.

3. The learned counsel submits that after passing of this order, the applicant has approached the revenue authority and obtained the record in respect of the aforesaid Gat number. Though the land Gat No. 2422 was shown in the 7/12 extract admeasuring 39 R, when the applicant got it measured from the Government approved surveyor, it was revealed that the said Gat No. 2422 is actually measured as 563.49 square meters i.e. 6.06 R. The learned counsel submits that the same is much less than the share of the applicant as proposed and claimed in Special Civil Suit No. 18 of 2010.

4. The learned counsel for the respondent has also not disputed this position and the learned

counsel for the respondent submits that the respondent will offer suit plot nos. 9, 10, 11 and 12 carved out of old Gat No. 2374 and new Gat No. 2429. The learned counsel submits that the respondent has no objection if clause II (i) of the order, dated 21.3.2018 is modified to that extent. The learned counsel for the applicant, on instructions, accepts the modified offer as stated above.

5. In view of above, the order, dated 21.3.2018 in Writ Petition No. 1986 of 2015 so far as clause II (i) of the operative part of the order, is hereby modified in the following manner.

The defendant nos. 1, 2A to 2C, 3 and 7A, 8, 11 to 13 and 15 to 17 are hereby restrained from creating third party interest in respect of Plot Nos. 9, 10, 11 and 12, which is part and parcel of suit property 'C' bearing old Gat No. 2374 (new Gat No. 2429), situated at Shrigonda and further the aforesaid defendants are restrained from raising any

sort of construction on the suit plots as mentioned above, till the disposal of the suit.

6. With the above modification, the Civil Application is disposed of.

[V.K.JADHAV, J.]

dbm