

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

WRIT PETITION NO. 7475 OF 2016

ASHUTOSH GANGADHAR MATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Shri Patil Vijay B..
AGP for Respondents 1 and 2 : Shri S.K.Tambe.
Advocate for Respondents 3A to 5 : Shri Patil Vinod Prakash.

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CORAM: RAVINDRA V. GHUGE, J.
DATE :- 21st February, 2018

Per Court:

1 The Petitioner is before this Court seeking to challenge the order dated 19.11.2012 passed by the Sub Divisional Officer and the order dated 21.09.2015 passed by the Additional Collector with regard to the mutation entry.

2 There is no dispute that Special Civil Suit No.131/2007 has been decreed on 31.10.2009 and Regular Civil Appeal No.419/2014 (old First Appeal No.723/2010) is still pending adjudication before the learned Additional District Judge, Bhusawal.

3 This Court, by order dated 15.06.2010 passed in Civil Application No.3927/2010 in First Appeal No.723/2010, which is renumbered as Regular Civil Appeal No.419/2014 after being transferred to the first Appellate Court at Bhusawal owing to the change in the

pecuniary jurisdiction, has granted interim relief to the extent of permitting the execution proceedings to continue as per the procedure, but the actual delivery of possession would not be effected in consequence to the execution of the decree, till the appeal is decided.

4 Considering the above, I do not find any reason for keeping this petition pending. This Writ Petition is, therefore, disposed of.

5 Needless to state, the relief granted by this Court on 15.06.2010 in Civil Application No.3927/2010 in First Appeal No.723/2010, would continue till the first Appellate Court, Bhusawal decides RCA No.419/2014. I find it appropriate to direct the first Appellate Court to decide the said appeal proceedings as expeditiously as possible and in any case on or before 31.12.2018.

6 It is now informed that RCA No.415/2014 has also been filed by one of the contesting party in Special Civil Suit No.131/2007. As such, the said appeal shall also be decided along with RCA No.419/2014 as directed above.

7 Needless to state, considering the law laid down in Shrikant R. Sankanwar and others vs. Krishna Balu Naukudkar, 2003 (3) BCR 45, the fate of the mutation entry at issue in this Writ Petition would be subject to the result in RCA No.419/2014.