

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10867 OF 2017
(Ravindra Babasaheb Saraf and others Vs. Shivaji s/o Sakharam
Deshmukh and others)

Mr.S.S.Tope, Advocate for the petitioners.
Mr.P.R.Katneshwarkar, Advocate for respondent No. 1 to 3.
Mr.S.R.Yadav, AGP for respondent Nos. 5 to 9.
Respondent No.4 served.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 11/07/2018

PER COURT :

1. The petitioners are aggrieved by the order dated 19/07/2017 passed by the Hon'ble State Minister for Revenue by which he has ordered the cancellation of mutation entry No.600 which was in favour of the petitioners and has directed that a fresh entry be taken subject to the decision of a Civil Court. There is no dispute that there is no civil litigation between these litigating sides with regard to the suit property admeasuring 2 hectares 67 R in Gat No.17 at village Gundewadi, Tal. and Dist. Jalna.

2. After hearing the learned Advocates for the rival sides at length and upon considering the law laid down by the Hon'ble Apex Court (3 Judges) in the matter of Suraj Lamp and Industries Pvt.Ltd., Vs.

State of Haryana and another [2012 AIR (SC) 206], I find that several disputed issues emerge from this litigation. Suffice it to say, that following are the disputed issues :-

[a] Whether the petitioners desired to sell their land to Sant Shri Aasaramji Aashram, Jalna ?

[b] Whether respondent No.1, deceased respondent No.2 and respondent No.3, acted on behalf of the Ashram or whether they acted in their personal capacity for personally purchasing the land ?

[c] Whether these 3 persons have created an eye wash by projecting that the Ashram is purchasing the land ?

[d] Whether the General Power of Attorney Holder / respondent No.4 Madan Narayan Kharat, acting on behalf of these petitioners, has surreptitiously sold the land to the above stated 3 respondents while preparing the sale deed, which has been subsequently registered ?

[e] Whether these 3 respondents could have projected that the Ashram is purchasing the land when there is no Aashram registered under the Maharashtra Public Trusts Act ?

[f] Whether the registered sale deed was executed by keeping these petitioners in the dark ?

The above stated disputed issues are illustrative in nature and

are not exhaustive.

3. This Court in Shrikant R.Sankanwar and others Vs. Krishna Balu Naukudkar [2003(3) Bom.C.R.45] has concluded that the mutation entries are purely for fiscal purposes to be utilized by the Revenue Authorities for recovering taxes. Disputed questions about the right, title and interest of a claimant cannot be gone into in such proceedings. The claims of the litigating sides with regard to the right or title over a land can only be settled by the Civil Court and the decision of the civil proceedings will bind the revenue entries.

4. Learned Advocate for the petitioners submits on instructions from petitioner No.2 present in the Court that the petitioners are agreeable to initiate civil proceedings subject to maintaining status quo as existing today. They claim that they are in possession of the land.

5. Learned Advocate appearing on behalf of respondent No.1, LR's of deceased respondent Nos. 2 and respondent No. 3 submits on instructions that the Civil Court proceedings may be expedited and the litigating sides would extend their co-operation to the Trial Court for the expeditious disposal of the civil suit.

6. Learned AGP appearing on behalf of respondent Nos. 5 to 9 submits that the Hon'ble Minister has also observed that the parties should get their rights adjudicated upon through the civil proceedings.

7. As such, this petition is disposed of with the following directions :-

[a] The litigating sides would maintain status-quo with regard to the suit property and the revenue entries, for a period of 3 months upto 15/10/2018.

[b] No third party interest or encumbrances shall be created by any side.

[c] The above directions are subject to the petitioners preferring their civil suit within 4 weeks from today alongwith an application for seeking temporary injunction Under Order 39 Rule 1 and 2 of the CPC.

[d] The interim protection and directions as above shall continue till 15/10/2018 or till the Trial Court decides the Exh.5 application for injunction, whichever is earlier.

[e] The defendants in the suit would file their written statements within 30 days from the date of receipt of the

summons.

[f] The litigating sides would extend their co-operation to the Trial Court so as to enable the Court to decide the said suit on or before 31/12/2019.

[g] All contentions of the litigating sides, inclusive of their objections, are kept open for the Trial Court to consider the same on their own merits and in accordance with Law since this Court has not dealt with any of the disputed questions or objections of these parties.

[h] The impugned order of the Hon'ble Minister shall be subject to the orders that would be passed by the Trial Court in the said proceedings.

(Ravindra V.Ghuge, J.)