

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12697 OF 2017
(Yogeshkumar s/o Laxmanrao Deshpande Vs. Sunita d/o Vitthal
Joshi @ Sunita w/o Sumant Kulkarni and another)

Mr.A.B.Kadethankar, Advocate for the petitioner.
Mrs.M.A.Kulkarni, Advocate for respondent No.1.
Mr.Ajinkya Reddy, Advocate for respondent No.2.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 15/06/2018

PER COURT :

1. The petitioner has put forth his prayers in clause 8-B and 8-C as under :-

“8-B - The judgment and order dtd.26-09-2017 delivered by the Ld.Additional Commissioner, Aurangabad in Revision Petition bearing No.MUN/REVISION/PETI/224/2015 may kindly be quashed and set aside, and the order dtd.08-10-2015 passed by the R.No.2 restoring name of petitioner's father may kindly be confirmed.

8-C - Pending hearing and final disposal of this writ petition, execution and operation of the judgment and order dtd.26-09-2017 delivered by the Honourable Additional Commissioner, Aurangabad in revision petition bearing No.MUN/REVISION/PETI/224/2015 may kindly be stayed.”

2. I have heard the learned Advocates for the respective sides

extensively. Issue is as regards respondent No.1 claiming to have married the father of the petitioner Laxmanrao Deshpande after the demise of his first wife in 2005. She further claims that the house property at Ramnagar, Degloor road, Taluka Udgir was passed on to her by her husband on the basis of a partition deed. Laxmanrao Deshpande passed away in 2015 while being in the company of the petitioner son at Pune. The dispute between the petitioner and respondent No.1 arose when the petitioner realized that she had taken possession of the house property and the revenue records were altered on the basis of the partition deed, in her favour.

3. In the above backdrop, as the litigation between the petitioner and the respondent progressed before the revenue authorities in relation to the revenue entries, respondent No.1 preferred RCS No.476/2015 seeking perpetual injunction against the petitioner herein on the basis of the partition deed. The Trial Court framed issues and the onus and burden was cast upon the plaintiff to prove whether she is the legally wedded wife of the deceased, whether she has become the owner of the suit property, whether the suit property is in her possession, etc. By judgment dated 27/03/2018, the Trial Court has dismissed the suit after concluding that the plaintiff failed to prove that she was the legally wedded wife of the deceased and that she had become the owner of the suit property. It was also concluded that she is not in possession of the

suit property.

4. Learned Advocate for the respondent/plaintiff contends that she has no knowledge as to whether the plaintiff has preferred any regular civil appeal. She submits that all revenue entries would naturally be subject to the result of the civil litigation.

5. This Court has settled the issue in Shrikant R.Sankanwar and others Vs. Krishna Balu Naukudkar [2003(3) Bom.C.R.45] that the revenue entries do not decide the right, title and interest of any litigant. It is only the Civil Court that can crystallize such rights and all revenue entries would be subject to the result of the civil litigation.

6. Considering the above, this petition is partly allowed. In the event the respondent/plaintiff has failed to secure any protective orders by approaching the Appellate Court for challenging the judgment dated 27/03/2018, the impugned revenue entries in favour of the plaintiff stand set aside and the revenue authorities would be obliged to carry out fresh revenue entries strictly in accordance with the judgment delivered in the civil litigation.

(Ravindra V.Ghuge, J.)