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

925. WRIT PETITION No. 13456 OF 2018

Sanjay Latkan Patil … Petitioner
Versus
The Collector, Jalgaon and others … Respondents

Mr. B.R. Waramaa, Advocate for petitioner
Mr. S.B. Pulkundwar, Asstt. Govt. Pleader for respondents No. 1 & 2

Coram : N.M. Jamdar, J.

Date : 5 December 2018.

ORAL ORDER :

1. By this petition, the petitioner has challenged a notice issued by the Revenue Authority dated 23 October 2018 in respect of taking possession of the property.

2. It is the contention of the petitioner that when the suit being Regular Civil Suit No. 7 of 1995 was decreed by the learned Joint Civil Judge (Junior Division), Amalner, on 20 February 2007, it was declared that the plaintiffs therein have 1/12th share in land Gat No. 481/2 and other house property with which this petition does not concern. It is the contention of the petitioner that on 4 July 2018

when the petitioner had sought to appear in the execution proceedings, the learned executing Court had observed that in view of the mutation entry No. 3936, Gat No. 481 has been divided in Gat No. 481/1 and 481/2. It is thereafter the executing Court has specified that the share to be given to the plaintiff is from Gat No. 481/2. The executing Court had further clarified that the decree to be executed is in respect of Gat No. 481/2. The notice which the petitioner has impugned specifies Gat No. 481. It is apprehension of the petitioner based on this notice that while executing the decree in respect of Gat No. 481/2, with which the petitioner has no concern, might get it executed in respect of Gat No. 481/2 as well and there should be a demarcation.

3. The decree passed and the order dated 4 July 2018 by the executing Court are abundantly clear that the decree is to be executed from Gat No. 481/2. The executing Court itself has observed that there are two parts of Gat No. 481 i.e. Gat No. 481/1 and 481/2. The Revenue Authority, therefore, will have to execute the decree as it is and as clarified by the executing Court in order dated 4 July 2018. Merely, because entire Gat number is mentioned, it does not mean that the Revenue Authority has assumed power to execute the decree even in respect of properties not included in the decree. Mentioning

of the entire Gat No. 481, as pointed out by the learned Assistant Government Pleader, seems to be just a general description.

4. Therefore, since the legal position is clear that the decree will have to be executed as it is and for that purpose if any demarcation is to be carried out, the Revenue Authority will have to do so, the apprehension of the petitioner is not warranted.

5. The writ petition is accordingly disposed of as above.

N.M. Jamdar, J.