

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 713 OF 2017

Amir Baig Saqru Baig (Dead)

Through L.R's

Salim Baig Amir Baig Patel and others

.. **Petitioners**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri S. K. Shinde, Advocate for Petitioners.

Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 5.

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 27th March, 2018

PER COURT :

1. The grievance of the petitioners is to the extent the Falni No. 12 and 7/12 extract in favour of petitioners in respect of land Survey No. 168/2 and 169/1 is not being prepared.

2. The affidavit is filed by the Naib Tahsildar to the effect that land which is claimed by the petitioners through Amir Baig Saqru Baig, is a separate property of Amir Baig and is not the

subject matter of Writ Petition No. 2117 of 2015. Paragraph 11 of the affidavit reads thus -

“11. I say and submit that, it appears from the record, that, the original land owner i.e., the original ex-lessor in respect of present suit land is concerned is Amir Baig Sakru Baig (Inamdar). The present petitioners are the legal heirs of the said ex-lessor. The property in respect of Sy. No. 168/2 and 169/1 is concerned, it is the separate property of Amir Baig. The subject matter of earlier W.P. No. 2117/2015 is concerned, the ex-lessor is in that matter is Salam Baig Mughal Baig and the suit land is Sy. No. 168/1 to the extent of 17 acres and 18 gunthas. Therefore, these are the two separate lands, the ex-lessor is also separate, therefore, their names came in the Format 3 appears at Sr. No. 33 and 34 respectively. I say that, as the said land is separate, the Tahsildar, Rahata by letter dt. 5.11.2015 had communicated to the Dy. Superintendent of land Record, Rahata to submit the report of Falni-12 alongwith the measurement to the extent of 65 acre and 31 gunthas land in Sy. No. 168/2, 169/1 but the said authority by letter dt. 18.7.2016 informed that, as there is stay by this Hon'ble High Court, they are unable to proceed further but it is clarified by them that, so far as measurement and fixation of boundaries is concerned, the said was already done by the said authority. So far as

Falni12 is concerned, the same is not executed. Therefore, the grievance of the present petitioner is concerned, it is the Dy. Director of Land who has to implement Falni-12 and the said authority is made as party respondent no. 4 in the present petition. So far as the present deponent is concerned, the grievance of the present petitioner can be considered by directing the respondent no. 4 to do the needful.”

3. In the light of above, even as per the affidavit of the Naib Tahsildar, the property as claimed by the petitioners is separate and is not a subject matter of Writ Petition No. 2117 of 2015, then there is no impediment for the respondents to take further steps to implement Falni No. 12 and to prepare 7/12 extract. The respondent Nos. 3 and 4 shall take steps in this regard expeditiously and preferably within six (6) months.

4. The writ petition accordingly stands disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

marathe