

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.14090 OF 2018

Sagar s/o Gokul Gandhi

Petitioner

Versus

State of Maharashtra & another

Respondents

Mr.D.K.Kulkarni, advocate for the petitioner.

Mr.G.L.Deshpande, AGP for Respondents.

CORAM : S.S.SHINDE AND

K.K.SONAWANE, JJ.

DATE : 19th December, 2018.

P.C. :

- 1 Heard learned Counsel for the petitioner.
- 2 This petition is filed with following substantive prayers:

(B) By issuing the writ of mandamus or any other order, directions or writ in the nature of writ of mandamus, respondent no.2 be directed to accept objection of petitioner filed in the Inward department of respondent no.2 (Exh. D hereof) and hear him on the said objection before finally determining the shares of decree holder in Special Darkhast No.57/1977 pending on his file.

(C) By issuing appropriate writ or directions, the properties survey nos.52/1 and 52/2 be ordered to be deleted or respondent no.2 be directed to delete those survey numbers from Special Darkhast no.57/1977 in view of order passed by learned executing court below exh.1 dt. 21/12/1981 (Exh. B to this petition) before

sending the said Darkhast for execution to respondent no.2.

3 We have considered submissions of the learned Counsel for the petitioner.

4 Learned Counsel for the petitioner submits that his status is transferee. The properties, which are mentioned in the petition, have been deleted by the executing Court, however, the District Collector has shown those properties for partition. The petitioner has attempted to file objections, however, petitioner's objections, before the District Collector, are not accepted. He submits that the petitioner can file such objection petition. In support of his contention, he invited our attention to provisions of Order XXI Rule 16 of the Code of Civil Procedure and also the judgment of the Supreme Court in the case of **Khemchand Shankar Choudhary and another Vs. Vishnu Hari Patil and others**, reported in AIR 1983 SC 124.

5 In the first place, this petition raises disputed questions of facts and, therefore, it is not possible for this Court to undertake the exercise of adjudication of such disputed questions of facts. Though learned Counsel for the petitioner, at the cost of repetition, submitted that petitioner's status is transferee, nevertheless, to appreciate such contention, this Court will have to undertake adjudication of disputed questions of facts when other parties to Special Darkhast No.57/1977 and also to the proceedings before the Civil Court are not before this Court.

6 In that view of the matter, we are unable to persuade ourselves for granting relief to the petitioner.

7 Writ Petition stands rejected.

K.K.SONAWANE
JUDGE

S.S.SHINDE
JUDGE

adb