

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 5874 OF 2018

Narayan Dinkar Aware/ Bhosale
since deceased, through his L.Rs.
a. Dattatray N. Aware/Bhosale
and others.

..Petitioners

Versus

Shivaji Dinkar Aware
and others

...Respondents

WITH
Civil Application No.2102 of 2018
IN
Writ Petition NO. 5874 OF 2018

....

Mr. Bhushan Walimbe, Advocate for the Petitioners.
Mr. Rahul Kate a/w. Rupesh Zade, Advocate for Respondents No.1 to 4.
Mr. Tushar Sonawane, Advocate for Respondents No.3, 4 and 9
Mr. Y.P. Narvankar, Advocate for Respondents No.6 & 8.
Mr. Abhijeet B. Kadam, AGP, for Respondents No.10 to 14.

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CORAM : R. G. KETKAR, J.

DATE : 22nd NOVEMBER, 2018

P.C.

1. Heard Mr.Bhushan Walimbe, learned counsel for the petitioners, Mr. Rahul Kate, learned counsel for respondents No.1 to 4, Mr. Tushar Sonawane, learned counsel for respondents No.3, 4 and 9, Mr. Y.P. Narvankar, learned counsel for respondents No.6 & 8 and Mr.Abhijeet B. Kadam, learned AGP for respondents No.10 to 14, at length.

2. Mr. Walimbe sought leave to delete respondent No.5 on the ground that she did not participate before the trial Court. On the oral application made by Mr. Walimbe, leave to delete respondent No.5 is granted. Amendment shall be carried out forthwith.

3. This Petition takes exception to the order dated 19.3.2018 passed by the Additional Commissioner, Pune Division, Pune in Revision No.Jamin/Pune/03/2018. By that order, the Additional Commissioner disposed of the appeal.

4. Rule. Learned Counsel for the respective respondents waive service. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of the parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

5. Mr. Walimbe submitted that the appeal was preferred only on the limited ground, namely, the Sub-Divisional Officer, Baramati rejected the application filed by the petitioner for stay of the partition table suggesting partition by Tahsildar and Taluka Inspector of Land Records. By order dated 12.2.2018, the Additional Commissioner directed the parties to maintain status quo till next date of hearing. By the impugned order, the Additional Commissioner disposed of the Revision Application.

6. The learned Counsel for the respondents fairly submitted that the impugned order may be set aside and the proceedings before the Additional Commissioner may be restored by directing the Commissioner to decide the Revision Application in a time bound manner as it only challenges the order of S.D.O. rejecting the stay application.

7. In view thereof, by consent of parties, the order dated 19.3.2018 is set aside. The proceedings before the Additional Commissioner are restored to his file. The parties agree that they will appear before the Additional Commissioner on 3.12.2018 and for that purpose no fresh notice be issued to them. On 3.12.2018, the Additional Commissioner shall fix a suitable date and thereafter proceed to decide the proceedings within four weeks from fixing the suitable date. Till disposal of the proceedings, the order dated 12.2.2018 passed by the Additional Commissioner shall remain in force. All contentions of the parties are expressly kept open. Rule is made absolute in aforesaid terms with no order as to costs. In view of disposal of Writ Petition, Civil Application No.2102/2018 does not survive and the same is also disposed of. Order accordingly.

(R. G. KETKAR, J.)