

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.5806 OF 2014
along with
CIVIL APPLICATION NO.2507 OF 2017**

Laxman Dhondu Nate .. Petitioner/Applicant
Vs.
Shataram Dhondu Nate & Ors. .. Respondents

Mr.Sandeep D. Sherkhane for the petitioner.
Ms.Savita M. Yadav for the respondent no.1.
Ms.K.N. Solunke, AGP for the respondent nos.7, 8, 10 & 11-State.

**CORAM : R.D. DHANUKA, J.
DATE : 6th March 2018**

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 6th August 2013 passed by the respondent no.11.

2. It is the case of the petitioner that the suit property was ancestral property of the petitioner and the respondents. The suit bearing RCS No.53 of 2001 was filed before the Court of Civil Judge, Junior Division, Devrukh against the petitioner for partition. The said suit was decreed declaring that the petitioner no.1 had 1/3rd share per capita, the respondent no.1 had 1/3rd share per capita and the petitioner nos.2 to 7 had 1/3rd share per strips in the suit property. It was further declared in the said decree that the Will dated 17th October 1996 was illegal and was not binding upon the respondents. The first appeal as well as the second appeal against the said decree came to be dismissed.

3. The issue of partition was thereafter referred to the Tahsildar for effecting the partition of the suit land by metes and bounds. The petitioner has lodged objection before the learned Tahsildar. It is the case of the petitioner that however the petitioner has remained absent at the time of the alleged physical partition of the suit land by the Tahsildar. It is the case of the petitioner that the petitioner was explained orally about the alleged partition of the suit property and by misleading the petitioner, the respondents obtained the signature on possession receipt dated 26th December 2008. The petitioner challenged the said partition by filing an appeal before the Sub-Divisional Officer which came to be rejected. The petitioner thereafter filed another appeal before the Additional Collector, Ratnagiri. The learned Additional Collector rejected the appeal filed by the petitioner. The petitioner filed a revision application before the Additional Commissioner, Kokan Division, Mumbai. The learned Additional Commissioner also dismissed the application filed by the petitioner.

4. Learned counsel appearing for the petitioner submits that in the partition carried out by the learned Tahsildar, only barren land was handed over to the petitioner. He submits that his client was misled at the time of partition and his signature was obtained on the possession receipt. The petitioner has not challenged the said possession receipt by filing any proceedings. The petitioner was handed over the property as per his share by the learned Tahsildar in the year 2008 itself and since then the petitioner is in possession of that property. The Additional Commissioner, Kokan Division, Mumbai has rightly dismissed the revision application filed by the petitioner. Various findings of facts are

rendered by various authorities against the petitioner and the same are not perverse, thus no interference with those findings is permissible under Article 227 of the Constitution of India.

5. The writ petition is devoid of merits and is accordingly dismissed. In view of dismissal of the writ petition, civil application does not survive and is accordingly disposed of. No order as to costs.

R.D. DHANUKA, J.