

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.9852 OF 2019

Sikkandar Fattu Patel & others

Petitioners

Versus

Narayan s/o Raoji Gaikwad & others

Respondents

Mr.N.R.Bhavar, advocate for the petitioners.

Mr.A.N.Barhate Patil, advocate for Respondent No.1.

Mr.S.P.Tiwari, AGP for Respondents No.4 and 5.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 07th August, 2019

PER COURT:

1 The petitioners are aggrieved by the order dated 26.04.2019 passed by the learned President, Maharashtra Revenue Tribunal, Mumbai by which the proceedings have been remanded to the Tahsildar, Kopargaon by confirming the order of the Sub Divisional Officer, Shirdi, who had also remanded the matter. All the parties are granted the liberty to lead evidence before the Tahsildar. The parties were directed to appear before the Tahsildar on 12.06.2019 and they have appeared.

2 The learned advocate for Respondent No.1 submits that the petitioners have systematically avoided remaining present before the Tahsildar and today, the Tahsildar has posted the matter for passing orders.

3 I have perused the order of the Sub Divisional Officer, Shirdi and the order passed by the learned President, Maharashtra Revenue Tribunal, which is impugned in this petition. The issue is as regards tenancy. The contention of the petitioners is that Respondent No.1 has Narayan declared before the Tahsildar that he is not interested in the property and he should not be served with the notice of hearing.

4 Taking an overall view of the matter, I do not find that the concurrent orders remanding the matter to the Tahsildar could be termed as being perverse or erroneous. In the event, Respondent No.1 – Narayan Raoji Gaikwad does not desire to seek any claim in the property, he would appear before the Tahsildar and file his statement in the presence of the Tahsildar that he is not so interested. The Tahsildar would verify the identity of Respondent No.1 and then record that he does not want a share in the property.

5 In view of the above, this petition is disposed off with the directions set out in the foregoing paragraph as regards Respondent No.1 – Narayan Raoji Gaikwad. It is also made clear that if the petitioners do not appear before the Tahsildar today by

3.00 p.m., either in person or through their advocate, the Tahsildar would proceed to deliver his final order in the matter. Only if the petitioners cause an appearance before the Tahsildar, as directed, the Tahsildar would grant the petitioners 15 days time to lead evidence, as is permissible as per the procedure applicable to such proceedings. This would include cross-examination of such witnesses by the opponents. If the opponents have not led evidence, they would also be at liberty to lead evidence within 15 days after the conclusion of evidence of the petitioners.

6 The Tahsildar, Kopargaon, shall endeavour to conclude the recording of oral evidence and hearing of oral arguments of the respective parties, latest by 31st August, 2019 and shall thereafter deliver a reasoned order considering the entire contentions of the parties, on or before 30th September, 2019.

7 The learned AGP to communicate this order to the Tahsildar, Kopargaon, without waiting for a copy of this order.

RAVINDRA V. GHUGE
JUDGE