

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8579 OF 2019

RAHMATULLA KHAN AMANULLA KHAN PATHAN
VERSUS
SAHEB BEE MD MASIUDDIN THROUGH LRS

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Advocate for Petitioner : Smt. Ansari A.N.
Advocate for Respondents 3, 4A & 5 : Shri Syed G.R.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: September 16, 2019

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PER COURT :-

1. The contesting respondents / decree holders have been served through paper publication. Rest of the parties are purely formal litigating sides. Respondents 1 and 2 are dead and learned Advocate Shri Syed appears on behalf of respondents 3 to 6.

2. The petitioner is aggrieved by the order dated 10.12.2018 passed by the executing Court, vide which, application Exhibit 76, filed by the decree holders seeking addition of a third party, has been allowed on the ground that nobody has canvassed Exhibit 76 and the decree holder can carry out the necessary amendments.

3. I have considered the submissions of the learned Advocates for the respective sides. The petitioner specifically relies upon the panchanama carried out on 8.1.2014, at page No.82, in pursuance to

the direction of the Chief Officer, Nagar Parishad, Udgir, dated 2.1.2014. The petitioner further relies upon the measurement map accompanying the panchanama at page 83 to indicate that he is the owner of House No.1-3-88 (Old No.1-3-83). It is canvassed that he does not own or possess an inch of land beyond the measurements of the said house in the map at page 83. He is neither the owner of House No.4-2-50, which is the suit property, nor is he in possession of any portion of the said house. It is further canvassed that he is not a necessary party to RD No.26 of 2018 since he is not a judgment debtor and is a complete stranger.

4. Learned Advocate for the decree holders submits, on instructions, that Judgment Debtor Nos.1 and 3 have raised an objection contending that House No.1-3-88 is a part of the suit property and the petitioner has purchased it. Based on such objections, the decree holders had filed Exhibit 76 seeking addition of the petitioner. Now that the petitioner submits that he does not have an inch of land, either purchased or in his possession, in House No.2-4-50, the decree holder shall rely upon page No.82 and the map at page 83 in the petition paper book and would have no objection for deleting the petitioner as an added respondent in the execution proceeding.

5. The learned Advocate for the petitioner submits, on instructions, that the registered sale deed dated 20.8.2013 is placed on record and this petitioner has nothing to do with the property of the decree holder and has no reason to raise any objection in the pending darkhast proceedings.

6. In the light of the above, the statement made by the petitioner is being recorded as a statement made to the Court.

7. This petition is, therefore, allowed. The impugned order dated 10.12.2018 is quashed and set aside.

8. The decree holders are at liberty to place before the executing Court, the documents at pages 81, 82 and the map at page 83, so as to apprise the executing Court that the petitioner is unconnected with the execution proceedings. Accordingly, House MC A No.1-3-88 (Old No.1-3-83) would be deleted from the executing proceedings.

9. Before I part with this petition, I deem it appropriate to record that the learned Civil Judge S.D. Udgir, (Shri B.R.Giri) who has passed the impugned order dated 10.12.2018 is cautioned that an unreasoned cryptic order should not be passed without understanding the serious implications of such an order. The learned

Registrar (J) of this Court shall place a copy of this order before the learned Principal District Judge, Latur so as to counsel the concerned learned Civil Judge S.D. who has passed the order dated 10.12.2018.

(RAVINDRA V. GHUGE, J.)

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