

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

902 WRIT PETITION NO.424 OF 2014

**BABASAHEB BHAGURAO GHUGE
VERSUS
BALIRAM RANGNATH BANSODE AND OTHERS**

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Advocate for Petitioner : Mr. M.D. Gitte h/f. Mr. R.S. Sadaphule
AGP for Respondent/State : Mr. A.B. Chate
Advocate for Respondent 1 : Mr. P.K. Palve

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**CORAM : T.V. NALAWADE, J.
DATED : 14/02/2019.**

ORDER :

1. The petition is filed to challenge the order made by the learned Additional Commissioner Aurangabad made under Maharashtra Land Revenue Code by which the proceeding filed by the present petitioner to challenge the orders made by Tahsildar and also Sub Divisional Officer (S.D.O.) of mutation is dismissed.

2. The submissions made and the record show that suit in respect of the disputed property was filed in the year 2006 and it was for relief of specific performance of agreement of sale. The suit came to be decreed on 26.8.2008 as against the persons shown as owners in revenue record. Though appeal was preferred by some persons against the said decision, there was no stay to the execution of decree of specific performance of

contract. In view of that circumstance and as the defendant, owner was not turning up to execute the sale deed, the Court appointed Officer for execution of the sale deed and the sale deed came to be executed on 24.12.2012. It appears that prior to 24.12.2012, on 16.10.2012 the owner defendant had executed the sale deed in favour of present petitioner. The petitioner then applied to revenue authority for mutation in his favour on the basis of said registered sale deed. Objection was taken to such mutation by the decree holder and so, the mutation was not made. He approached the S.D.O. also. The mutation was not made on the basis of his sale deed and so, he has filed the present proceeding.

3. Though it can be said that technically the petitioner ought to have challenged the order of Additional Commissioner before the State Government, there are other circumstances also against the petitioner. In view of the provision of section 52 of the Transfer of Property Act, the transfer of the suit property by the defendant was not possible. In the result, the petition is dismissed.

[T.V. NALAWADE, J.]

ssc/