

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

**REVIEW PETITION (ST.) NO. 31455 OF 2018
IN
WRIT PETITION NO. 4265 OF 2018**

Amol Krushnarao Deshmukh and ors.Petitioners
v/s.
The Sarpanch Grampanchayat, Wangi & Ors.Respondents

Mr. V.S. Talkute for the Petitioners
Mr. A.I. Patel, AGP for the State.
Mr. M.B. Deshmukh for respondent no.1.

**CORAM: RANJIT MORE, AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATE : 05TH APRIL, 2019.

P. C. :-

. This review petition is filed for recall of the order dated 09/07/2018 in the above Writ Petition.

2. The review petitioner was not a party to the Writ Petition. The petitioner claims to be the owner of the Gat No.3264 admeasuring 78 R and 0.2 R situated at Village Wangi, Tal. Kadegaon, Dist. Sangli, more particularly described in paragraph 1A of the plaint in RCS No.213/2017 which is pending before CJSD, Sangli.

3. It is the case of the petitioner that the unregistered gift deed dated 10/01/1973 executed by predecessors of the applicants and the Gram Panchayat, Wangi is illegal.

4. The Writ Petition impugned the orders dated 05/02/2018 and 14/02/2018 passed by the Chief Minister, the State of Maharashtra and The Collector, Sangli respectively. By the said orders, Chief Minister and The Collector (respondent nos.1 and 3 respectively) in the said petition directed to stop the construction of Primary Health Centre on Gat No.3264. The stand of the petitioner is that in the said Gat No.3264, the Collector and the Chief Minister could not have passed the said order.

5. When the matter was placed before this Court on 09/07/2018, the learned counsel for respondent nos.4 to 6 in the Writ Petition made a statement that the construction of the Primary Health Centre has commenced on the said Gat No.3264 and the same shall be completed expeditiously.

6. We accepted the above statement and in the light of the said statement, quashed and set aside the orders dated 05/02/2018 and

14/02/2018 passed by the Chief Minister, the State of Maharashtra and The Collector, Sangli respectively.

7. Mr. Talkute, learned counsel for the review petitioner states that there is a civil dispute between the petitioner and the respondent nos.4 to 6 (*in the writ petition*) in respect of the suit property and the a Regular Civil Suit No.213/2017 is pending before Civil Judge, Senior Division, Sangli. He states that the respondent nos.4 to 6 in the Writ Petition are going ahead with the construction of the Primary Health Centre in Gat No.3264 on the basis of the observations made in paragraph 3 of the order dated 09/07/2018. The grievance of the Mr. Talkute, learned counsel for the review petitioner is that by order dated 08/10/2018, the Trial Court has dismissed the application under Exhibit – 5 relying upon the observations made in paragraph 3 of the order dated 09/07/2018. He contends that review petitioner has challenged the said order and that the appeal is pending before the Appellate Court.

8. We make it clear that the challenge in the Writ Petition was to the orders passed by The Chief Minister, the State of Maharashtra and The Collector, Sangli. In the said Writ Petition, we were not called

upon to decide the title of the property i.e. Gat No.3264. The said Writ Petition was disposed of solely on the basis of the statement made by the respondent nos.4 to 6 (*in the writ petition*) without going into the merits of the matter. Suffice it to say that the dispute as regards the title of the property under Gat No.3264 is the subject matter of the Civil Suit and the Trial Court as well as the Appellate Court is required to adjudicate the said Civil Suit as well as the Appeal independently on its merits without being influenced by the observations made in paragraph 3 of the order dated 09/07/2018.

9. Subject to above, Review Petition stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)