

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11830 OF 2015

Shri. Abhay Hastimal Jain

.....Petitioner
(Orig. Plff-
Decree Holder)

V/s.
Malegaon Municipal Corporation
and Ors.

....Respondents
(Orig. defd-
Judg. Debtor)

Mr. Anilkumar Patil, Advocate for the petitioner.

None for the respondent.

CORAM : SANDEEP K. SHINDE, J.

Wednesday, 12th June, 2019.

P.C. :

1. Heard learned Counsel for the petitioner.
2. The learned Counsel for the petitioner has placed on record, affidavit of service which shows that the Corporation was served. However, none appears for the

Corporation.

3. Petitioner's Regular Civil Suit No. 89 of 1983 for perpetual injunction was decreed; whereby Corporation has been restrained from carrying out any work on the plot bearing Revision Survey No. 305/3/1 admeasuring 14 R which is now part of final Plot No.82 sanctioned under the Town Planning Scheme of the respondent-Corporation. On 5th August, 2013 in execution of the said decree (Regular Darkhast No. 25 of 2013). Petitioner filed an application under Order 21 Rule 32(1) Civil Procedure Code. The learned Judge rejected the said application having found that the decree-holder has not taken steps for demarcation of Plot No.82/D as suggested in Writ Petition No. 122 of 2011 by this Court. The learned Judge, equally found that for want of better particulars and for identification of the property, the application was rejected.

4. The learned Counsel for the petitioner, submits that, petitioner has taken appropriate steps for demarcation of the property and for separate property

card and subject proceedings are pending before the Superintendent of Land Records at Nashik.

5. In view of the facts aforesaid and pending proceedings before the Superintendent of Land Records, if the Superintendent of Land Records issues a separate property card and demarcates the property in respect of which decree of injunction is passed, the petitioner is at liberty to re-apply for execution of the said decree in accordance with law.

6. Thus, no interference is called for in the order impugned in this petition. The petition is accordingly dismissed.

(SANDEEP K. SHINDE, J)