

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

WRIT PETITION NO. 12926 OF 2018

Vikas Tukaram Sarate and anr.	...Petitioners
vs.	
Sanjay Sida Jadhav and ors.	...Respondents

Mr. V.S.Talkute for the Petitioners.
Mr. P.J. Gavhane, AGP. for Respondent Nos. 2 to 4, 9,10 and 12.
Mr. R.S.Apte, Sr. Advocate i/by Datta Mane for Respondent No.1.

CORAM : C.V. BHADANG, J.
DATED : 9TH DECEMBER, 2019

PC:

1. Although the dispute has a checkered history, this petition can be disposed of on a short count. Ambaji Khadtare (since decease) was owning land Survey No.116(2/B)/2 and 108/1/2/3/4 at Village Kasaba, Sangola, District Solapur. Yeshwant son of Ambaji filed Regular Civil Suit No.338/2000 (Old Special Civil Suit No.91 of 1990) for partition and separate possession of his 1/3rd share in the aforesaid properties. It appears that Yeshwant Khadtare during the pendency of the suit and without consent of other co- sharers sold a part of the land admeasuring 1-H 14.50 R out of Gut No.116/2 by executing two separate sale deeds in favour of Harun Mubarak Shaikh and Smt. Hababi Harun Shaikh. The names of the purchasers were recorded in the revenue record on the basis of the sale deeds

vide Mutation entry No.19599 and 16601. Harun Mubarak Shaikh and Smt. Hababi Harun Shaikh in turn sold the said property vide sale deed dated 19.1.2001 in favour of one Yelappa Mahaling Kanak Reddy, who got his name mutated in the revenue record vide Mutation entry No.20204. Yelappa Mahaling Kanak Reddy in turn sold the property to one Kesharbai Bhagwan under sale deed dated 24.11.2005.

2. Regular Civil Suit No.338 of 2000 was compromised between the parties and a consent decree was drawn on 8.10.2006 thereby granting 1/3rd share each to Nivrutti son of Ambaji Khadtare, legal heirs of Yeshwant and Yamunabai Khadtare being the widow of Sopan son of Ambaji Khadtare.

3. There appears to be certain dispute as to the mutation entries in respect of the sale deed pertaining to the share of Yeshwant Khadtare which is the subject matter of challenge in Writ Petition No.12182/2018 filed by Rajaram Dattatraya Mane and Dilip Shivaji Jadhav against Sanjay Sida Jadhav and others. The present petition pertains to the transfer of share of Yamunabai. However, the contention on behalf of the petitioners is that, on account of dispute pertaining to the share of Yeshwant, the impugned order passed by the revenue authorities has the effect of even cancelling the sale deed/mutation entry in respect of purchase by the

petitioners. The learned counsel points out that the petitioners have nothing to do with the dispute in respect of the mutation entries effected on the basis of the successive transfer of share of Yeshwant is concerned. He points out that the petitioners have purchased 1-H 14.50-R out of Survey No.116/2/B/2 from Yamunabai Khadtare who was original defendant No.3 in the suit. He further points out that Dnyaneshwar Teli and Ashuddin Mulani have purchased the land admeasuring 1-H 36-R out of Survey No.108/1/2/3/4 from Yamunabai Khadtare under registered sale deed dated 24.12.2014. He further points out that Sadashiv Tukaram Bankar and Somnath Maruti Gulmire have purchased the land admeasuring 1-H 20-R from Yamunabai Khadtare under sale deed dated 24.12.2014 and finally the petitioners have purchased a land admeasuring 1-H 7-R out of Survey No.108/1/2/3/4 from Sadashiv Bankar and Somnath Gulmire by registered sale deed dated 19.9.2015 in respect of which Mutation entry No.41437 has been recorded.

4. Mr. Apte, the learned Senior Counsel for respondent No.1 in all fairness submits that the essential⁵ the dispute pertains to the share of Yeshwant and nothing to do with the transfer of share of Yamunabai is concerned.

5. The learned counsel for the petitioners submits that private respondent Nos. 5 to 8 are also the purchasers of certain

portion from Survey No.108/1/2/3/4 from out of share of Yamunabai. He points out that there is absolutely no dispute as far as Survey No.108 is concerned. He submits that, the interest of the petitioners are not adverse to that of respondent Nos. 5 to 8.

5. I have considered the circumstances and the submissions made. It appears that the entire dispute springs from the fact that Yeshwant entered into certain transactions of sale during the pendency of R.C.S.No.338 of 2000 which was ultimately decided on the basis of the consent terms on 8.10.2006. The present petition pertains to the transfer of share of Yamunabai. In such circumstances, it is evident that, the order passed by the revenue authorities will not have any bearing on the sale deeds executed effecting transfer of share of Yamunabai is concerned. With this clarification the petition is disposed off with no order as to costs.

(C.V. BHADANG, J.)