

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12157 OF 2019

Shree Sai Reality through Partner
Sandeep Dindyal Agarwal and others ... Petitioners
Vs.
Pandurang Laxman Yadav and others ... Respondents

Mr. P. K. Dhakephalkar, Senior Advocate i/b. Mr. A. P. Kulkarni for
Petitioners.

Mr. Ajit Kenjale a/w. Mr. Suraj Bansode and Mr. Sohil Gulabani i/b. Mr. S. S. Yadav for Respondent Nos.1 to 3.

Mr. N. C. Walimbe, AGP for Respondent Nos.20 to 23.

CORAM : UJJAL BHUYAN, J.
DATE : DECEMBER 11, 2019

P.C. :

As agreed to by learned counsel for the parties, case is taken up for final disposal at the stage of admission itself.

2. Heard Mr. Dhakephalkar, learned Senior Counsel i/b. Mr. Kulkarni, learned counsel for the petitioners and Mr. Kenjale, learned counsel for respondent Nos.1 to 3; also heard Mr. Walimbe, learned AGP for respondent Nos.20 to 23-State.

3. By filing this Petition under Articles 226/227 of the Constitution of India, petitioner seeks quashing of order dated 07.10.2019 passed by the Deputy Director of Land Records, Pune Region in Second Appeal No.4890 of 2019 and further seeks stay of execution of order dated 25.01.2019 passed by the District Superintendent of Land Records, Pune in Appeal No.4089 of 2018.

4. Without entering into the rival contentions, it is seen that District Superintendent of Land Records had passed order dated 25.01.2019 on application of respondent Nos.1, 2 and 3 for re-measurement of the land

over which construction is being carried out by the petitioners. It was contended that such construction by the petitioners has intruded into the land of respondent Nos.1, 2 and 3.

5. Learned counsel for respondent Nos.1, 2 and 3 submits that pursuant to order dated 25.01.2019, the land was measured on 04.04.2019.

6. As noticed above, by order dated 25.01.2019, District Superintendent of Land Records partly allowed the appeal of respondent Nos.1, 2 and 3 by directing re-measurement of land after issuing notice to all concerned.

7. This came to be challenged by the petitioners in the second appeal before the Deputy Director of Land Records, Pune Region which has been registered as Second Appeal No.4890 of 2019. Along with the appeal, petitioners filed an application for stay of order dated 25.01.2019. However, by the order dated 07.10.2019, the prayer for stay was rejected.

8. Hence, the writ petition.

9. From the above what is discernible is that Second Appeal No.4890 of 2019 is pending consideration before the Deputy Director of Land Records, Pune Region. Court is of the view that it would be in the interest of justice if the said appeal is finally heard and decided by the Deputy Director of Land Records in accordance with law.

10. Consequently, Deputy Director of Land Records, Pune Region is directed to take on board Second Appeal No.4890 of 2019 and to decide the same one way or the other in accordance with law within a period of two months from the date of appearance of the parties.

11. During the interregnum, consequential steps pursuant to re-measurement shall not be taken.

12. Since the parties are before the Court, let them appear before the Deputy Director of Land Records, Pune Region on 23.12.2019 at 10.30 a.m.

13. No opinion is expressed on merit and all contentions are kept open.

14. With above directions, writ petition is disposed of.

(UJJAL BHUYAN, J.)

Minal Parab