

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

WRIT PETITION NO. 11920 OF 2019

Shri Krushnath Dhondiram Patil & Ors. ... Petitioners.

V/s.

The Additional Commissioner, Pune
Division, Pune & Ors. ... Respondents.

Mr. Tanaji Mhatugade, Advocate, for the Petitioners.
Mr.S.L.Babar, AGP for the State-Respondent Nos.1 to 5.

CORAM : UJJAL BHUYAN, J.

DATE : NOVEMBER 27, 2019.

PC :

1 Heard Mr. Tanaji Mhatugade, learned counsel for the Petitioners and Mr. S. L. Babar, learned AGP for the State - Respondent Nos. 1 to 5.

2 This petition has been filed by the Petitioners, assailing the legality and correctness of the order dated 07.11.2019 passed by the Additional Commissioner, Pune Division, Pune, in rejecting the application filed by the Petitioners.

3 It is stated that the Petitioners are brothers, being sons of late Dhondiram Keshav Patil. Respondent

No. 6 is sister of Petitioners, being daughter of late Dhondiram Patil.

4 After demise of the father- Dhondiram Patil, Respondent No. 6 sought share in the family property and made an application to that effect before the Circle Officer - Respondent No.4. Respondent No.4 allowed the mutation entry of Respondent No.6; against which Petitioners preferred an appeal before the Sub-Divisional Officer, Respondent No.3. The appeal was rejected by Respondent No.3. Thereafter, Petitioners preferred Revision Application before Respondent No. 1, which is stated to be pending. Along-with the Revision Application, Petitioners also filed an application for stay by relying on a family partition document, whereby Petitioners' claim that Respondent No. 6 had relinquished her share in the family property. By impugned order dated 07.11.2019, Respondent No. 1 rejected the said stay application.

5 Aggrieved, present Writ Petition has been filed.

6 Submissions made by the learned counsel for the parties have been considered.

7 Respondent No.1 rejected the prayer for stay, citing the following reasons.

“The name of all the heirs have been recorded and the Mutation has been upheld by both the Lower Courts. The Revision applicant relies upon an unregistered document, claiming that the respondent has relinquished her share to the suit land.

I therefore see no reason to grant stay.”.

8 There is no dispute that power to grant stay or reject stay is incidental to power to entertain Revision Application. Revisional Authority has exercised its discretion and on due application of mind has declined to grant stay. No error or infirmity is discernible in such order. That apart, the Revision Application is fixed for hearing on 29.01.2020.

9 In such circumstances, court is not inclined to entertain the Writ Petition. There is no merit in the Writ Petition.

10 Writ Petition is dismissed.

(UJJAL BHUYAN, J.)

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