

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2996 OF 2016

Ashok Haribhau Murhekar, Khamgaon, Dist. Buldana

-vs-

Dinesh Gangadhar Rote, Khamgaon, Dist. Buldana

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. D. Bhate, Advocate for petitioner.

Shri V. R. Chaudhari, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : July 03, 2019

In view of notice for final disposal issued earlier, the parties have been heard.

The petitioner is the non-applicant in proceedings that were filed by the respondent herein seeking rectification in the name of the petitioner's father in the decree passed in Spl.C.S. No.21/2008. The said suit was decreed and said decree has attained finality. According to the respondent the name of the petitioner's father had been wrongly shown in the said decree and hence the same was sought to be rectified. Hence M.J.C. No.183/2014 came to be filed. Reply was filed opposing the prayer as made in the said proceedings. The petitioner then filed an application for framing issues so as to enable the Court to record evidence.

That application was opposed by the respondent and the trial Court by the impugned order rejected the said application by observing that it was not necessary to frame issues and lead additional evidence.

2. Heard the learned counsel. Under provisions of Chapter XIX of the Civil Manual the manner in which miscellaneous proceedings requiring judicial enquiry are to be conducted has been stipulated. Paragraph 341 indicates that the Court may use the provisions of Order XIX of the Code of Civil Procedure, 1908 regarding affidavits. Since correction sought was in the name of the petitioner's father the trial Court can follow the procedure prescribed by Paragraph 341 of the Civil Manual and on the basis of affidavits adjudicate the said necessary judicial proceedings.

3. In that view of the matter the writ petition is disposed of by permitting the trial Court to follow the procedure prescribed by Paragraph 341 of the Civil Manual after giving opportunity to the parties. No costs.

JUDGE