

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5838/2018

(MAROTI SHYAMRAO DARNE **VERSUS** SURESH KRISHNARAO BHOYAR & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri Sarabjeet Singh Saddal, counsel for petitioner.
 Shri S.S. Bhalerao, counsel for R-1.
 Shri S.B. Bissa, A.G.P. for R-2 to 5.

CORAM : A.S. CHANDURKAR, J.

DATE : AUGUST 27, 2019.

The orders passed by the Revenue Authorities in mutation proceedings are the subject matter of challenge in the present writ petition.

The land in question is portion of Gat No.22/2 which totally admeasures 6 Hectare 90 R. One Tanabai Raut was declared as owner of land admeasuring 2 Hectares 68 R in the suit for partition filed by her. She thereafter on 26.10.1998 by executing a Will in favour of the respondent no.1 herein bequeathed her share in the said property. It is the case of the petitioner that his mother, Sumanbai had raised a challenge to the said Will executed by Tanabai. After her death, he had right to the aforesaid property and hence mutation entries in the name of the respondent no.1 could not have been entered. The Tahsildar by his order dated 06.03.2012 has directed the name of the respondent no.1 to be recorded in the revenue records in view of registered Will dated 26.10.1998. The said order was challenged by Sumanbai Darne by filing proceedings before the revenue Authorities and then before the Additional Commissioner. On 20.02.2018 that revision application came to be rejected. Being aggrieved by that order, the present writ petition has been filed.

Heard the learned counsel for the parties and perused the impugned orders as passed. It is not in dispute that the mother of the petitioner has sought determination of her rights in the execution proceedings arising out of the decree passed in Regular Civil Appeal No.9 of 2004 for challenging the Will executed by Tanabai on 26.06.1998. The adjudication of the respective rights of the parties would be dependent upon the outcome of those proceedings. It is only thereafter that the mutation entries can be altered. As that adjudication has not yet attained finality, the orders passed with regard to the mutation proceedings cannot be interfered with at this stage.

By clarifying that the parties would be entitled to have their names mutated after the adjudication of the proceedings by the Civil Court, the writ petition stands disposed of. No costs.

JUDGE

APTE