

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1369 OF 2020

Pandit s/o Pralhad Jawale

Petitioner

Versus

The Additional Collector,
Parbhani & others

Respondents

Mr.S.S.Jadhavar, advocate for the petitioner.
Mr.S.W.Munde, AGP for Respondent No.1.

CORAM : ROHIT B. DEO, J.

DATE : 28th January, 2020.

P.C. :

1 The petitioner is challenging the interim order passed by the Additional Commissioner, Aurangabad, whereby the prayer of the petitioner to set aside the order of the Additional Collector, which confirms the mutation entry in favour of the contesting respondents and sets aside the mutation entry in favour of the petitioner.

2 The contesting respondents obtained heirship certificate under the provisions of the Bombay Regulation VIII of 1827. The mutation entry, which was recorded in the names of contesting respondents, was on the basis of the heirship

certificate. At the instance of the petitioner, the said mutation entry was cancelled and the name of the petitioner was recorded on the basis of the Will purportedly executed by deceased Chabubai, who admittedly was the recorded owner.

3 There is some dispute, whether the property was purchased by Chabubai or whether the property was ancestral. However, what is not in dispute is that the contesting respondents have the heirship certificate which was *prima facie* found sufficient by the Tahsildar, who mutated their names in the property left behind by deceased Chabubai. Thereafter the petitioner came up with the Will and his name was entered as owner of the property in the revenue record.

4 It is not necessary to make any decisive observation on the merits of the contention or whether the order of the Additional Collector is proper or otherwise. The order impugned is only interim in nature and the Additional Commissioner shall undoubtedly look into every issue and decide the same in accordance with law, at an appropriate stage. It would suffice if a direction is issued to the Talathi that the entry in favour of the respondents be recorded as a disputed entry, as is mandate of Section 150 of the Maharashtra Land Revenue Code, 1966.

- 5 No interference in the order impugned is necessary.
- 6 The mutation entry shall be recorded as a disputed
entry.
- 7 Petition is disposed of.

ROHIT B. DEO
JUDGE

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