

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

912 WRIT PETITION NO.458 OF 2020

PRAKASH MAHADEO BHANGE AND OTHERS
VERSUS
ASHOK SHANKARRAO RAUT AND OTHERS

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Mr. J.M. Murkute, Advocate for the petitioners.

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CORAM : **Rohit B. Deo, J.**

DATE : 9th January 2020.

PER COURT :-

. This petition is preferred by defendant Nos.5 to 8 who have purchased the suit property from defendant Nos.1 to 4.

2. Plaintiff has brought a suit seeking declaration that the sale deed executed by defendant Nos.1 to 4 in favour of defendant Nos.5 to 8, is illegal and null and void.

3. The petitioners - defendant Nos.5 to 8 preferred an application for recasting the issues. The issue which the petitioners requested to frame reads thus :

“Whether the plaintiff has right or Locus Standi to challenge the area description, boundaries and other details etc. of sale deeds executed by defendant Nos.1 to 4 in favour of other defendants”

4. The trial Court has rejected the application inter-alia observing that the issues framed cover the issue of locus standi, etc.

5. I do not see any reason to take a different view. I have perused the issues framed. Initial burden to prove that the description of the property which is the subject-matter of the sale deed is incorrect and that the sale deed is illegal, is cast on the plaintiff. Similarly, the burden to prove that there is right of pre-emption is also cast on the plaintiff. I am satisfied that the issues which are framed, would cover the issue which the petitioners desire to be framed.

6. The petition is dismissed.

(ROHIT B. DEO, J.)