

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

19. WRIT PETITION No. 1942 / 2020

Vikram S/o Nivrutti Dhakne

...Petitioner

VERSUS

Bhimrao Nivrutti Dhakne and others

...Respondents

Mr. N.P. Bangar, Advocate for petitioner

CORAM : ROHIT B. DEO, J.

DATE : 3rd February, 2020

PER COURT :

1. The petition is clearly misconceived.
2. The petitioner is plaintiff in Reg. civil suit No. 175/2012 brought for declaration and injunction.
3. The defendants in Reg. civil suit No. 175/2012 are Bhimrao Nivrutti Dhakne, Mahesh Bhimrao Dhakne, Sangita W/o Bhimrao Dhakne and Vaibhav Bhimrao Dhakne. The subject matter of Reg. civil suit No. 175/2012 is agricultural land Gat No. 806 admeasuring 20H.71R, out of which 4H.45R is described as disputed area.

4. It appears that Mahesh Bhimrao Dhakne instituted Reg. civil suit No. 165 of 2016 against Bhimrao, Sangita and Vaibhav, purportedly for partition and separate possession. The subject matter of Reg. civil suit No. 165/2016 is described as Gat No. 806 admeasuring 4H.45R. It further appears that the said civil suit, which was filed on 23rd March 2016, was compromised in *Lok Adalat* on 28th March 2016. A mutation entry is also taken on the basis of the said compromise, is the submission of the learned Counsel for the petitioner.

5. The petitioner submits that the compromise decree is clearly fraudulent. The petitioner was not made a party to Reg. Civil suit No.165 of 2016. The learned Counsel for the petitioner submits that the fact that within 5 days of filing, the suit was compromised substantiating the contention that the suit was colluded and fraudulent and brought only to defeat the rightful claim of petitioner Vikram Nivrutti Dhakne.

6. The petitioner was not a party to Reg. Civil suit No. 165 of 2016. In this view of the matter, the petitioner is not bound by the compromise decree. The petitioner further submits that a mutation entry is taken on the basis of the compromise decree. If

this be so, the petitioner shall be entitled to challenge the compromise decree on the ground that the compromise decree of the *Lok Adalat* is not binding on the petitioner.

7. The petitioner is further at liberty to amend the pending civil suit or to file an independent proceeding seeking declaration that the compromise decree is not binding. It is further made clear that the mutation entry which is taken, if taken only on the basis of the compromise decree, shall be recorded as disputed entry in view of the provisions of section 150 of the Maharashtra Land Revenue Code, 1966.

8. The petition is disposed of.

(ROHIT B. DEO)
JUDGE

Madkar