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

WRIT PETITION NO.8740 OF 2018

Radhabai w/o Vitthalrao Shinde,
Age: 62 years, Occu: Household/ Agri.,
R/o: Wadgaon (Sukre), Taluka and
District Parbhani,
Through General Power of Attorney
Vitthal s/o Anandrao Shinde,
Age: 75 years, Occu: Agri. & Pension

..PETITIONER

VERSUS

1. State of Maharashtra,
Through Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-32
2. Deputy Director of Land Records,
Aurangabad Division, Aurangabad
3. Superintendent of Land Records,
Parbhani, District Parbhani
4. Deputy Superintendent of Land Records,
Parbhani, District Parbhani
5. Baburao s/o Vyankatrao Gawali,
Age: 55 years, Occu: Agri.,
R/o: Wadgaon (Sukre), Taluka and
District Parbhani

..RESPONDENTS

Mr S. S. Gangakhedkar, Advocate for petitioner;
Mr S. S. Dande, A.G.P. for respondent Nos.1 to 4
Mr Vishal Bakal, Advocate h/f Mr V. S. Kadam, Advocate for
respondent No.5

**CORAM : PRASANNA B. VARALE
AND
ANIL S. KILOR, JJ.**

DATE : 3rd January, 2020

ORAL ORDER:

Heard Mr Gangakhedkar, learned Counsel appearing on behalf of the petitioner.

2. The submission of learned Counsel for the petitioner is, though by judgment dated 19th December, 2012, learned 2nd Jt. Civil Judge Junior Division, Parbhani decreed the suit, namely, R.C.S. No.296 of 1999 partly and directed the defendants to deliver vacant possession of the suit property within a stipulated period and reference is made in clause 4 of the order, the authority, namely, the Deputy Superintendent of Land Records proceeded for an exercise of carrying out measurement of the land afresh and a map is drawn giving total go-bye to the order of the Civil Court. It is the further submission of Mr Gangakhedkar, learned Counsel for the petitioner that in spite of a communication forwarded to the Deputy Superintendent of Land Records, Parbhani through his superior i.e. District Superintendent of Land Records, Parbhani, no action is initiated against the erring officer. Mr Gangakhedkar, on these submissions, invited our attention to the prayer clause of the petition.

3. Though the submissions of Mr Gangakhedkar, learned Counsel for the petitioner look very attractive at the first blush, we are unable

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to entertain the present petition for more than one reasons. The documents placed on record by the petitioner himself clearly show that the judgment and decree passed by learned 2nd Jt. Civil Judge Junior Division, Parbhani itself is subjected to an appeal presented before the District Judge, Parbhani. Thus, a lis between the parties is yet not concluded. Secondly, by no stretch of imagination, this Court can exercise its extraordinary powers under Articles 226 and 227 of the Constitution of India to decide the lis relating to property rights of the parties and at the cost of repetition, we state that the parties have already approached to the competent Civil Court.

4. Thirdly, though it was submitted by Mr Gangakhedkar, learned Counsel for the petitioner that no action is initiated against the erring officer, the document placed on record by the petitioner himself shows a different picture and that document is at Exh. 'F' i.e a copy of show cause notice issued to the Deputy Superintendent of Land Records, Parbhani through the District Superintendent of Land Records, Parbhani. Bare perusal of this document would show that on receipt of an application by the petitioner, the District Superintendent of Land Records, firstly forwarded the communication to the Deputy Superintendent of Land Records on 5th May, 2016, seeking his report. It seems that as there was no positive response, the District Superintendent of Land Records had taken recourse to the procedure

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set out under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and rightly so by issuing notice called upon the erring officer to submit his reply. When this exercise is undertaken by the superior officer, we have no reason to say that the superior officer i.e. the District Superintendent of Land Records had not initiated any action and was keeping mum. On the contrary, at the cost of repetition, we state that the District Superintendent of Land Records immediately took steps on receipt of an application of the petitioner.

5. Considering all the aforesaid facts, the only inescapable conclusion that can be drawn is the petition is devoid of merits and deserves to be dismissed at the threshold and same is dismissed accordingly.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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