

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.7243/2016

Bhujangrao s/o Namdeo Mante

...Versus...

Additional Commissioner, Amravati Division, Amravati and others

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

Court's or Judge's orders

Shri N.S. Munghate, Counsel for petitioner
Mrs. Geeta Tiwari, AGP for respondent nos.1 & 2
Shri S.S. Dhengale, Counsel for respondent no.3

CORAM : AVINASH G. GHAROTE, J.

DATE : 03/03/2020

1. Heard Shri Munghate, learned Counsel for the petitioner, Shri Dhengale, learned Counsel for the respondent no.3 and Mrs. Tiwari, learned Assistant Government Pleader for respondent nos.1 and 2.

2. A mutation entry No.905 dated 3/6/2009 by which a Well situated in the land of Gat No.137/3, at Mauza Digras (B), Tah. Deulgaon Raja, District Buldhana was recorded in the name of the present petitioner - Bhujangrao Mante, was challenged by the respondent no.3 before the Sub Divisional Officer, Buldhana on the ground that the entry was made merely on the basis of affidavit sworn by Bhujangrao, without any notice to the cultivators, which plea having been accepted, the entry was set aside.

3. Being aggrieved by the same, an appeal was filed before the Additional Collector, Buldhana, who, vide his order dated 30/03/2013 partly allowed the appeal and directed that the entry be recorded after issuance of notice to all the parties concerned.

4. In a revision filed by the respondent no.3, the Divisional Commissioner, Amravati, by the impugned order dated 30/6/2016, found that the Well was in the land of Gat No.137/3, which obviously was belonging to the respondent no.3, and therefore, the order passed by the Additional Collector was set aside, by accepting the revision.

5. Shri Munghate, the learned Counsel for the petitioner takes exception to the order of the Divisional Commissioner by placing reliance upon the partition-deed dated 9/6/1998 between Vithoba, Sheshrao, Bhujangrao, all sons of Namdeo Mante, in which it is claimed that the land of Gat No.137/3 had fallen to the share of the present petitioner, who having dug the Well therein, was therefore, entitled to have the entry in that regard recorded in his name.

6. A perusal of the document of partition-deed dated 9/6/1998 placed on record at Annexure-A, does not indicate with any sufficient clarity the extent of land fallen to the share of Bhujangrao or for that matter, that whatever fell to the share of Bhujangrao was the land of Gat No.137/3. In

light of this position, the claim of Bhujangrao that the Well was dug by him, without any supporting material placed on record and so also in absence of anything demonstrating the title of Bhujangrao to the land of Gat No.137/3, the entry in the name of Bhujangrao in respect of the Well clearly was not tenable in law. The findings, therefore, rendered by the Additional Commissioner, in the impugned order dated 30/6/2016 are in accordance with the factual position as availing on record, in light of which, the order dated 30/6/2016, cannot be faulted with.

7. In that light of the matter, there is no merit in the writ petition, and the same is dismissed with no order as to costs.

JUDGE

Wadkar, P.S.