

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

**WRIT PETITION NO.7322 OF 2018
WITH CA/8255/2019 IN WP/7322/2018**

**AJAY GOPINATHRAO NITURKAR (BOMBLE)
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Dr. Swapnil D. Tawshikar
AGP for Respondent Nos. 1 to 4 : Mrs. V. S. Chaudhari
Advocate for Respondent No.5 : Ms. Priyanka R. Deshpande
Advocate for Respondent No.6 : Mr. Vishal S. Kakde

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 07th DECEMBER, 2021

PER COURT :

1. This petition takes exception to the judgment and order dated 04-05-2018, passed by respondent No.2 – Divisional Commissioner, Aurangabad, in case No. 2017/ROR/REV/51 and the judgment and order dated 17-01-2017, passed by respondent No.3 – Additional Collector, Latur, in proceeding No.2016/ROR/A-80 as well as judgment and order dated 20-06-2016, passed by respondent No.4 – Sub Divisional Officer, Nilanga, Dist. Latur, in proceedings No.2015/ROR/A-50.

2. The grandfather of petitioner and respondent No.5 was Inamdar of Matapuri Jagdamba Devi Temple. The temple owned 4 Hectare 22 R Inam land. Bhagwatrao Gopinathrao Nitoorkar was

performing Pooja-Archa and cultivating the said land.

3. The petitioner filed Regular Civil Suit No.187/2008 against the grandfather, seeking a declaration that the petitioner is entitled to perform Seva, Pooja etc. of the Deity Matapuri Jagdamba Devi and to enjoy land bearing Survey No.117, Block No.386, admeasuring 4 H 22 R and C.T.S. No.1001 at village Nitoor, Tq. Nilanga, Dist. Latur, and injunction was sought that the defendant/grandfather Bhagwatrao Gopinathrao Nitoorkar be restrained from causing any obstruction to perform Pooja-Archa, etc. of the Deity Matapuri Jagdamba Devi at village Nitoor. The matter was compromised and compromise deed was presented before the trial Court. The grandfather accepted right of the petitioner and further contended that he has relinquished all his rights in respect of the said temple and the property in favour of the petitioner. Pursuant to the compromise terms, compromise decree was passed by the trial Court in favour of the petitioner. On the basis of the said compromise decree Mutation Entry No.1209 was sanctioned in favour of the petitioner, thereby the name of grandfather was deleted and the name of petitioner was entered in the other rights column of the 7/12 extract of the suit property.

4. Respondent No.5, cousin of the petitioner, initiated

proceedings challenging M.E. No.1209, by filing proceeding before respondent No.4 – Sub Divisional Officer, Nilanga, Dist. Latur, under Section 247 of the Maharashtra Land Revenue Code, 1966. Respondent No.4 – Sub Divisional Officer allowed the said proceeding and directed that till the orders in respect of succession of the Inam land are passed, the land be taken in possession by the Government and the same should be given on the yearly lease basis. He, therefore, set aside the M.E. No.1209. The petitioner unsuccessfully challenged the said decision before respondent No.3 – Additional Collector, Latur and respondent No.2 – Divisional Commissioner, Aurangabad. The petitioner is aggrieved by the impugned order passed by respondent No.4 – Sub Divisional Officer, confirmed by respondent Nos.2 and 3 and states that the same are liable to be quashed and set aside.

5. After hearing the rival submissions, in view of the pendency of Atiyat proceedings filed by the petitioner and respondent No.5 before the competent Atiyat Court, it is not necessary at this stage to consider the rival submissions. This Court is of the opinion that this petition needs to be disposed off by directing the Atiyat Court to decide the proceedings within a stipulated period. Hence the following order:

ORDER

(I) The Atiyat Court, before whom proceeding No.2018/ROR/

KV/229, filed by the petitioner and proceeding No.2016/INAM/CR/147, filed by respondent No.5 are pending, shall decide the same within a period of three months from the date of receipt of the writ of this order.

- (II) The decision impugned in the present petition shall be subject to the orders passed by the Atiyat Court.
- (III) Till the proceedings are decided by the Atiyat Court, status quo shall be maintained by the parties.

With these directions, the writ petition is disposed off. In view of disposal of the writ petition, the civil application is also disposed off.

(NITIN B. SURYAWANSHI, J.)