

Bhogale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12823 OF 2018

Hajra Iqbal Memon
vs.

.. Petitioner

Harshad Ratilal Mehta & ors.

.. Respondents

Mrs. Simeen Shaikh a/w Priyanka Gharge I/b. M/s. S.K. Srivastava
& Company for the Petitioner.

Mr. Vineet Naik, Senior Advocate I/b. Mr. Siddharth Ronghe for
Respondent Nos.1 to 6.

Mrs. V.S. Nimbalkar, AGP for the State.

CORAM : M.S.KARNIK, J.

DATE : FEBRUARY 9, 2021

P.C.:-

Heard learned counsel for the parties.

2. By this Petition filed under Articles 226 and 227 of the Constitution of India the Petitioner is challenging the order passed by the Hon'ble Minister dated 10.10.2018 dismissing the Revision filed by the Petitioner herein.

3. My attention is invited to the order dated 17.12.2018 passed by this Court. The relevant portion of which reads thus :-

“2. This matter was heard at length on 12.12.2018 and was adjourned till today for passing orders. During the course of the hearing, it was suggested that the parties will extend co-operation for implementing the order dated 04.08.2010 passed by the Additional Collector, Satara in BND/Second Appeal/2 of 2010. This order expected Tahsildar, Mahabaleshwar to carry out measurement of the properties in dispute by fixing the boundaries on the basis of the sale deeds, 7' x 12' extract as also the area mentioned in the respective sale deeds. It also expected measurement of adjoining lands. Matter was adjourned till today so as to enable the learned Counsel for the respondents No.1 to 6 to take instructions whether they are willing to extend co-operation by submitting documents for carrying out inquiry in terms of order dated 04.08.2010.

3. Learned Counsel for the parties assure that parties will extend full co-operation for implementing the order dated 04.08.2010. That order directed Tahsildar, Mahabaleshwar to carry out the measurements through Taluka Inspector of Land Records (now re-designated as Deputy Superintendent of Land Records) or Superintendent of Land Records, Satara.

4. List the Petition for 'admission' on 18.03.2019. Till next date, ad-interim order granted earlier to continue. Parties agree that they will appear before Tahsildar, Mahabaleshwar on 27.12.2018 at 11.00 a.m., and for that purpose, no fresh notice be issued to them. Let the exercise in terms of order dated 04.08.2010 be completed within a period of 3 months from the date of appearance of the parties. In case of any difficulty in carrying out the measurement, liberty to apply to this Court is granted.”

4. Pursuant to the order dated 17.12.2018 fresh measurements were carried out of the properties in dispute. In compliance with the order passed the map is produced by the Respondent Nos.1 to 6 vide an affidavit dated 16.04.2019.

5. The proceedings were initiated under Section 138 of the Maharashtra Land Revenue Code, 1966 ('the said Act' for short) for settlement of the boundaries. Aggrieved with the orders passed by the Tahasildar dated 21.02.2015, then order passed by the Sub Divisional Officer dated 06.01.2017 under Section 247, thereafter the order dated 24.04.2017 passed by the Additional Collector in Revision and the order dated 30.12.2017 passed by the Divisional Commissioner, the Petitioner approached the Hon'ble Minister. Even the Hon'ble Minister dismissed the Revision. There are concurrent findings recorded against the Petitioner.

6. In any case as this Court by an order dated 17.12.2018 has once again directed the Tahasildar to carry out measurement of the properties in dispute by fixing the boundaries on the basis of the sale deeds, 7' x 12' extract as also the area mentioned in the respective sale deeds, further having clarified that even the measurement of the adjoining land is expected, in that case if

the Petitioner has any grievance as regard the measurement pursuant to the order dated 17.12.2018 passed by this Court, it is always open for the Petitioner to resort to the appropriate remedies available in law challenging the said measurements.

7. I am informed that already there were three measurements and pursuant to the order dated 17.12.2018 passed by this Court the map as regards the fourth measurement was placed on record. In this view of the matter considering that the concurrent findings are recorded by the authorities below, I see no reason to interfere with the order passed by the Hon'ble Minister.

8. Learned counsel for the Petitioner has grievance about the measurements of the properties and is not satisfied with the map which is placed on record. If the Petitioner has a grievance, it is always open for her to challenge the fresh measurements by resorting to appropriate remedies available under the provisions of the Maharashtra Land Revenue Code, 1966 or even institute a suit for title as provided under Section 138 of the said Act. Subject to these observations, the Writ Petition is dismissed.

9. Learned Senior Advocate appearing on behalf of Respondent Nos.1 to 6 fairly makes a statement that the order

will not be implemented for a period of two weeks from today.

The Statement is accepted.

10. The Writ Petition is disposed of.

(M.S.KARNIK, J.)