

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

WRIT PETITION NO. 878 OF 2021

Bhagwat Bajirao Mathankar and others

vs.

The Additional Commissioner, 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.

Mr. P. A. Kadu, Advocate for petitioners.
Mr. S. M. Vaishnav, Advocate for respondent Nos.4 to 8.
Mr. K. L. Dharmadhikari, AGP for respondent Nos.1 to 3.

CORAM : MANISH PITALE J.

DATE : 22nd June, 2021

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard learned counsel for the rival parties.

3. At the outset, the learned counsel for the petitioners invites attention of this Court to a judgment and order dated 05/10/2015, passed by this Court in Writ Petition No.3409 of 2015, wherein the petitioner No.1 in this petition, was the petitioner. It is submitted that a similar controversy had arisen

before this Court and the writ petition was disposed of by taking note of Section 150(3) of the Maharashtra Land Revenue Code, 1966 and an appropriate direction was issued in the matter. It was submitted that a similar direction can be issued and the present writ petition can also be disposed of.

4. The petitioners herein claim that they have title to the property in question on the basis of a gift deed said to have been executed by the original owner. It is submitted that on the basis of such gift deed, in the year 1992, mutation entries were made in their favour. It is further submitted that after a long gap in the year 2015, the respondent Nos.4 to 8 filed an appeal before the Sub Divisional Officer challenging the said entries. The said proceeding initiated by respondent Nos.4 to 8 was rejected, against which they filed an appeal before the Additional Collector.

5. The Additional Collector allowed the revision and remanded the matter back to the Sub Divisional officer and this order was challenged by the petitioners before the respondent No.1 – Additional Commissioner. By the impugned order, the revision petition was rejected.

6. It was submitted that the Additional Collector in the present case failed to appreciate that the appeal filed by the respondent Nos.4 to 8 suffered from delay and instead of taking note of the same, the matter was remanded to the Sub Divisional Officer.

7. But, as noted above, the learned counsel for the petitioner submitted that this petition could also be disposed of in the terms of the order dated 05/10/2015, passed by this Court in Writ Petition No.3409 of 2015, Bhagwat Bajirao Mathankar vs. Additional Commissioner, Amravati Division, Amravati and others by directing that the names of the petitioner, as well as respondent Nos.4 to 8 could be entered in the register of disputed cases and the parties would be at liberty to raise their claims in respect of title to the property before the competent Civil Court.

8. The learned counsel appearing for respondent Nos. 4 to 8 submitted that if the present writ petition is also disposed of in same terms, it would be prejudicial to the said respondents in as much as after the aforesaid order dated 05/10/2015, passed in Writ Petition No.3409 of 2015, the petitioners have been taking loans from Banks, since

their name is shown in the record of right 7/12 extract. It is submitted that if the names of the rival parties are to be entered in the register of disputed cases, either the names of all the parties should be reflected in the record of rights or the name of none of them should be reflected, so that neither party would be able to take advantage in the manner indicated above.

9. The learned counsel for the petitioner has opposed the said contention, submitting that the record of rights would ultimately abide by the decision in a suit already filed by the contesting respondents for declaration and partition.

10. Considering the facts of the present case, it is evident that they are similar to the facts dealt with by this Court, while disposing of Writ Petition No.3409 of 2015. Despite the aforesaid contention raised on behalf of the respondent Nos.4 to 8, this Court is of the opinion that it would be in the interest of justice that a similar order is passed in the present writ petition also.

11. Accordingly, without interfering with the impugned order and taking note of Section 150(3) of the Maharashtra Land Revenue Code, 1966, it is

directed that the names of the petitioners, as well as respondent Nos.4 to 8 can be entered in the register of disputed cases, subject to decision in the aforesaid suit already filed by respondent Nos.4 to 8 before the competent Civil Court. None of the observations made in the impugned order shall come in the way of the parties. The Sub Divisional Officer shall make an endeavour to dispose of the appeal as expeditiously as possible.

12. Writ Petition is disposed of in above terms.

JUDGE