

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

WRIT PETITION NO.4183 OF 2020

- 1) Maroti s/o Bhivaji Hatwar,
Aged about 69 years, Occ. Cultivator,
- 2) Shyamrao s/o Bhivaji Hatwar,
Aged about 69 years, Occ. Cultivator,

Both R/o village Parsodi,
Tahsil & District Bhandara-441906.

...PETITIONERS

...V E R S U S...

Bhimrao s/o Govindraoji Lade,
Aged 60 years, Occ. Private,
R/o village Saori, P.O. Jawahar
Nagar, Tahsil & District Bhandara-441906. **...RESPONDENT**

Mr. V.D. Muley, Advocate for petitioners.
Mr. H.R. Gadhiya, Advocate for respondent.

CORAM:- V. M. DESHPANDE, J.
DATED :- FEBRUARY 24, 2021.

ORAL JUDGMENT

1. Rule. Rule made returnable forthwith. Heard finally by consent of the parties. Heard Mr. Muley, learned counsel for petitioner and Mr. Gadhiya, learned counsel for respondent.

2. This petition is filed by the original defendants. The cause for approaching the original defendants before this Court is

rejection of his application (Exh.-95) in Regular Civil Suit No. 266/2012 by learned 3rd Jt. Civil Judge Senior Division, Bhandara.

3. The respondent-plaintiff filed a suit for declaration and mandatory permanent injunction against the petitioners. The suit is contested by filing the written statement. The parties to the suit also adduced their respective evidence. After the evidence was over, the respondent-plaintiff filed an application (Exh.-90), for permission to file documents on record. The said application, though contested by the petitioners was partly allowed by the learned Judge vide order dated 10.07.2020 thereby giving permission to respondent/plaintiff for production of three documents on record. These documents are in the nature of 7/12 extracts in respect of Gat No. 258/2/2, 258/2/3, 258/2/4 in the names of Niranjana Bera, Parvatibai Gondane and Laxman Dhandu Meshram respectively.

4. Thereafter, on 13.07.2020, an application (Exh.95) was filed by the present petitioners seeking permission from the Court to file certified copies of judgments and decrees in Regular Civil Appeal No.53/2011, 56/2011 and 60/2011. Present petitioners

were the defendants in Regular Civil Suit Nos.162/2005, 155/2005 and 162/2005. These suits were filed against the present petitioners by Niranjana Bera, Laxman Meshram and Parvatabai Gondane. These are the persons in respect of whom 7/12 extracts were permitted by the trial Court to be brought on record. The suits filed against the petitioners were decreed. Against that, the present petitioners filed three different appeals i.e. Regular Civil Appeal No. 53/2011, 56/2011 and 60/2011. According to the petitioners, these three appeals were allowed by learned appellate Court holding therein that present petitioners are in possession of Gat Nos.258/2/2, 258/2/3, 258/2/4.

5. Except filing of the certified copies of these three judgments and decrees of the appellate Court, the petitioners-original defendants are not seeking permission to file any other document.

6. In my view, these documents will be necessary inasmuch as under Exh.-90, the Court has allowed the plaintiff to file three 7/12 extracts on record which pertain to names of respondent in the aforesaid three appeals. In my view, no

prejudice will be caused by giving permission to the petitioners to place certified copies of appellate Court's judgments on record. Giving permission to the defendants to place on record certified copy of the judgments does not mean that the trial Court is barred from appreciating those documents. Filing of documents is something different and appreciation of such documents is altogether different thing.

7. In my view, the Court below has committed error which needs to be corrected while exercising jurisdiction of this Court under Article 227 of the Constitution of India.

Hence, the impugned order passed by learned 3rd Jt. Civil Judge Senior Division, Bhandara rejecting application Exh.-95 in Regular Civil Suit No.266/2012 is hereby quashed and set aside.

Application Exh.-95 in Regular Civil Suit No. 266/2012 filed on behalf of the petitioners is hereby allowed.

The petitioners are permitted to place on record certified copies of judgments and decrees passed in Regular Civil Appeal Nos. 53/2011, 56/2011 and 60/2011.

It is expected from the learned Judge to decide the suit which is pending from 2012, as expeditiously as possible and within one year from 25.02.2021.

Rule is made absolute in the above terms. No order as to costs.

JUDGE

kahale