

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

WRIT PETITION NO.3240/2021

Harichandra Narayan Ramteke and others

...Versus...

Shri Namdeo Harkuji Dadmal

with

WRIT PETITION NO.3241/2021

Harichandra Narayan Ramteke and others

...Versus...

Sau. Vibha Balwant Thaware

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

Court's or Judge's orders

Shri Gaurav C. Khond, Advocate for petitioners

CORAM : AVINASH G. GHAROTE, J.

DATE : 31/08/2021

1. Heard Shri Gaurav Khond, learned Counsel for the petitioners.
2. The challenge is to the orders passed by the learned Trial Court below Exh.5 in Regular Civil Suit Nos.52/2018 and 53/2018 respectively, holding that the plaintiff is in possession of the suit property, field bearing Survey No.9 admeasuring 2.30 H.R. and 9.30 H.R., situated

at Mouza Shankarpur, Tahsil Chimur, District Chandrapur on the basis of a sale-deed dated 14/6/2006, executed in favour of the plaintiff by the defendant nos.1 and 2 and Bandu Narayan Ramteke and Ramchandra Sukru Ramteke, under which the plaintiff was placed in possession of the suit field. The learned Trial Court has taken into consideration the affidavit of Yuvraj Sukhdeve and Shankar Kisan Chaudhari, the adjoining landowners, who have stated on oath that the plaintiff is in cultivating possession of the suit field. Besides the report of spot inspection, conducted by the Taluka Inspector of Land Records (T.I.L.R.) in the case of one Kawadu Nete dated 23/11/2009, which mentions that the plaintiff is in possession of the suit field, is also relied upon to arrive at a *prima facie* finding that the plaintiff is in possession. As against this, there is absolutely nothing on record to show that the present petitioners were ever in possession of the suit field. The learned first Appellate Court has concurred with the finding of the learned Trial Court.

3. It being an admitted position, as reflected from para 3 of the order of the learned Trial Court that the names of the defendant nos.3 and 4 have been mutated in the record of rights, as per the order of the Additional Collector, Chandrapur dated 02/08/2018, which also does not speak anything about their possession, as claimed by the present petitioners, I do not see any infirmity in the reasoning of the

learned Trial Court as well as by the learned first Appellate Court, as the finding, as to the plaintiff being in possession, on the basis of the sale-deed dated 14/6/2006, has been correctly arrived at. There is therefore no merit in the writ petitions and the same are accordingly dismissed. In the circumstances, there shall be no order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar