

(1)

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

WRIT PETITION NO.13406 OF 2021

KASHINATH VYANKATESH KUNCHANWAR, THROUGH
GPA HOLDER KUNAL KASHINATH KUNCHANWAR AND
ANOTHER
VERSUS
THE ADDITIONAL DIVISIONAL COMMISSIONER,
AURANGABAD AND OTHERS

...

Mr U. B. Deshmukh, Advocate for petitioners;
Smt. P. V. Diggikar, A.G.P. for respondents/State

CORAM : SMT. BHARATI DANGRE, J.

DATE : 13th January, 2022

PER COURT:

1. The learned Counsel for the petitioners state that the petition is filed, being aggrieved by the rejection of his application filed before the Chief Officer of Municipal Council, deleting the illegal mutation entries taken in the property register. The reason in declining his application is cited to be pendency of a Regular Civil Suit filed before the competent civil Court. The petitioners filed Revision Application under Section 318 before the Additional Commissioner and the RDMA, which has not been entertained and is dismissed.

(2)

Perusal of the impugned order and the factual aspect would reveal that the petitioner claimed to have purchased the property in dispute vide registered sale deed and recorded their name along with the name of his brother, petitioner No.2, on obtaining N.A. permission and a restaurant came to be constructed on the said piece of land. The case of the petitioners is respondent No.3, taking advantage of his status as a resident of respondent/ Municipal Council, got his name mutated in the property card of the Municipal Council, in collusion with the office bearers. Being aggrieved, the petitioners filed Special Civil Suit No.6/2014, seeking partition and separate possession and in the said proceedings, the respondent Nos. 3 and 4 produced the property card extract and that is how petitioners got knowledge that the property cards stand in the name of respondent Nos.3 and 4 though in the record of right (7/12 extract), his name along with the name of the petitioner No.2 is still reflect.

This compelled them to move an application to the Chief Municipal Officer of the Council in the year 2020 and the same has been turned down on the ground that civil dispute between the parties, is pending.

(3)

2. On what basis the Municipal Council has effected the entries in the property card is not clear. The request made by the petitioners has been refused only on the ground that it shall await the decision of the Special Civil Suit No. 06/2014.

In the aforesaid circumstances, interest of justice would be better served for the parties if the learned Civil Judge Junior Division, Biloli, before whom Special Civil Suit No.6/2014 is filed by the plaintiffs, is pending, is directed to dispose of the said suit at the earliest and preferably within period of eight months from today.

The petitioners are satisfied with the aforesaid direction being issued and in the wake of aforesaid direction, the present writ petition is disposed of.

Needless to state that upon such a direction being issued, the respective parties shall render all their co-operation to the learned Judge in disposing of suit in the time bound period.

(SMT. BHARATI DANGRE, J.)

sjk