R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 468 OF 2015
WITH
CIVIL APPLICATION NO. 1540 OF 2016
WITH
CIVIL APPLICATION NO. 1539 OF 2016

Prataprao Ramrao Jagtap .. Petitioner

Versus

Vishwasrao Balwantrao Jagtap & Ors. .. Respondents

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- Mr. Pradeep S. Gole, Advocate for Petitioner
- Mr. Ashok B. Tajane, Advocate for Respondent No. 1
- Mr. S.D. Rayrikar, AGP for Respondent No. 7 - State

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 05, 2022

P.C.:

1. Heard Mr. Gole, learned Advocate for Petitioner, Mr. Tajane, learned Advocate for Respondent No. 1 and Mr. Rayrikar, learned AGP for Respondent No. 7 – State.

2. On 28.11.2022, this Court passed the following order:-

> *"1. Heard Mr. Gole, learned Advocate appearing for Petitioner.*
>
> *2. The dispute in the present Petition filed in the year 2015 pertains to entitlement to immovable property belonging to late Mr. Balwantrao. The present Petitioner Prataprao is the grandson of Balwantrao. Record indicates that in 1962 the property of Balwantrao was divided by metes and bounds and Ramrao i.e. father of Prataprao had received his share. In 1981 mutation entry was carried out and the same has been challenged before the statutory authorities and has now reached this Court in the form of the present Writ Petition. Admittedly, disputed questions of the facts are at stake which cannot be gone into by this Court.*
>
> *3. Advocate for Petitioner is directed to take appropriate instructions before the returnable date.*

4. Petitioner is directed to serve the unserved Respondents.

5. Respondents may file affidavit-in-reply on or before the next date.

6. Stand over to 05th December, 2022."

3. Mr. Gole, learned Advocate for Petitioner informs the Court that he has taken instructions that the Petitioner who is the successor-in-title to the share of Ramrao shall file an independent suit in the appropriate civil Court having original jurisdiction to agitate his right in respect of the suit property.

4. It is made clear that in the event if any such suit is filed, observations made in the impugned order passed by the State in revision proceedings under the Maharashtra Land Revenue Code 1966 which is impugned in the present petition shall not come in the way of the Petitioner and the Petitioner shall be entitled to agitate his rights independently and in accordance with law.

5. With the aforesaid directions, Writ Petition stands disposed of.

6. All contentions of both the parties are expressly kept open before the civil Court.

7. In view of disposal of the Writ Petition, nothing further survives in pending Civil Applications. The same are also disposed of.

[MILIND N. JADHAV, J.]

RAVINDRA MOHAN AMBERKAR
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