

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

Writ Petition No.873/2018

Pravin Lohiya and others V Deputy Director of Land Records, Amravati others

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

Court's or Judge's Orders

Mr. R.M. Pande, Advocate for petitioners.
 Mr. M.G. Sarda, Advocate for respondent no.4.
 Mrs. Mrunal Barabde, AGP for respondent nos. 1 to 3.

CORAM : AVINASH G. GHAROTE, J.

DATE : 01-08-2022

Heard Mr R.M. Pande, learned Counsel for the petitioners, Mr M.G. Sarda, learned Counsel for the respondent no.4 and Mrs. Barabde, learned AGP for respondent nos. 1 to 3.

2. This petition challenges the order dated 29-09-2017 passed by the respondent no.1, whereby the order dated 31-01-2015 passed by respondent no.2 has been quashed and set aside and the matter was remanded back to the respondent no.2. The issue pertains to the mutation entry no. 5056, which came to be recorded in the revenue record, in respect of land bearing plot no.3, sheet no. 27, mouza Wani, District Yavatmal. The original entry was in the name of Mr. Lohiya and Company, through its partners Badrinarayan Kanhaiyyalal and Kisanlal Khushalchand which by the aforesaid mutation entry no.5056, was directed to be deleted and in its place the name of M/s Lohiya and Combines on

the basis of Partnership Deed dated 02-06-1984 has been directed to be recorded. The mutation entry no.5056 is dated 21-06-1985. (pg 21). Against such deletion, an appeal was preferred before the respondent no.2, who by the order dated 31-01-2015 (pg 44) had directed the deletion of the mutation entry no. 5056 and all the proceedings regarding mutation to be subject to the result of Special Civil Suit No. 779/2009 before the Civil Judge Senior Division, Nagpur.

3. One of the grounds, for doing this was the non production of the Partnership Deed dated 02-06-1984. This order was challenged before the respondent no. 1, who by the impugned order dated 29-09-2017 has set aside the order dated 31-01-2015 and remanded the matter back. It is submitted by Mr. Pande, the learned Counsel for the petitioners that in absence of the document dated 02-06-1984, it was not permissible for the mutation entry no.5056 to have been effected. I have asked Mr Sarda, learned Counsel for the respondent, whether he has copy of that Partnership Deed dated 02-06-1984. He, however, expresses his inability. The learned Counsel for the petitioners also concedes that the Partnership Deed dated 02-06-1984 is not available on record. Mr Pande, learned Counsel for the petitioners is also unable to state about the existence of this document.

4. Considering which, since there is no prima facie existence of the document of Partnership Deed dated 02-06-1984, the mutation entry no.5056, cannot be sustained. The impugned order passed by the respondent no.1, which does not consider this

position, is hereby quashed and set aside and that of the respondent no. 2 is restored.

5. It is, however, made clear that, all the mutation entries in respect of the said property, shall be subject to the final result of the Special Civil Suit No.779/2009 pending before the Civil Judge Senior Division, Nagpur and so also Special Civil Suit No. 4/2018 pending before Civil Judge Senior Division, Kelapur.

6. In view of above terms, the petition is allowed. No costs.

(Avinash G. Gharote, J.)