

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 3728 OF 2022

Smt. Gajrabai w/o Shivaji Chavan,
Age 50 years, Occ. Household, M.G. Road
R/o. Chakur, Tq. Chakur
District Latur.

... Petitioner

Versus

1. Sau. Chanchalabai Shivraj Yenge
Age 56 years, Occ. Household.
2. Sau. Pryagbai w/o Ganpati Pastapure,
Age 84 years, Occ. Household,
3. Vitthal s/o Ganpati Pastapure
Age 51 years, Occ. Agriculture,
4. Ramchandra s/o Ganpati Pastapure
Age 62 years, Occ. Agriculture,

Resp. Nos. 1 to 4 are M.G. Road
R/o. Chakur, Tq. Chakur, Dist. Latur.
5. Savitrabai w/o Anand Nalpure,
Age 59 years, Occ. Household,
R/o. Nagobachi Wadi,
Tq. Udgir, Dist. Latur.
6. Suman Janardhan Yelmate,
Age 54 years, Occ. Household,
R/o. Selu Manwat, Tq. Selu,
Dist. Parbhani.
7. Manohar s/o Shivaji Chavan,
Age 35 years, Occ. Agriculture,
8. Angad s/o Shivaji Chavan,
Age 33 years, Occ. Agriculture,
9. Yuvraj s/o Shivaji Chavan,
Age 31 years, Occ. Agriculture,
10. Govind s/o Shivaji Chavan,
Age 30 years, Occ. Agriculture,
11. Vishal s/o Shivaji Chavan,
Age 28 years, Occ. Agriculture,

12. Anusaya d/o Shivaji Chavan
Age 25 years, Occ. Agriculture,

Resp. Nos. 7 to 12 are M.G. Road
R/o Chakur, Tq. Chakur,
Dist. Latur.

...Respondents

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Mr. Anil H. Kasliwal, Advocate for the Petitioner.

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CORAM : **SANJAY A. DESHMUKH, J.**

RESERVED ON : 07th September, 2023.

PRONOUNCED ON : 21st September, 2023

Per Court:

1 This is a writ petition filed for setting aside the order dated 17th November, 2017 passed by the learned Divisional Commissioner, Aurangabad Division, Aurangabad (Upper Vibhagiya Ayukta, Aurangabad) in Case No.2015-ROR-IV-505, thereby confirming the orders passed by the Sub-Divisional Officer, Ahmedpur in proceeding No.2014/R.O.R/A-57 dated 29th December, 2014, and the learned Additional Collector, Latur in Appeal No.11 of 2015, dated and 14th October, 2015.

2 Brief facts of the case are that, the civil dispute between the parties is pending in the Court of learned Civil Judge Junior Division, Chakur bearing R.C.S. No.08 of 2013 and R.C.S. No.89 of 2013 regarding block Nos.636 and 638 of village Chapoli, Taluka Chakur, District Latur. The revenue litigation was also started before

the revenue authority for entering the names of owners to the record of rights of the agriculture lands bearing block Nos.636 and 638. The Sub-Divisional Officer, Ahmedpur passed an order in proceedings bearing No.2014/R.O.R/A-57 dated 29th December, 2014, against which Appeal No.2015/RTS/A-11 was moved by the petitioner before the learned Additional Collector, Latur. The learned Additional Collector dismissed that appeal by holding that the above mentioned suits are dismissed. The petitioner preferred revision petition before learned Additional Commissioner, Aurangabad bearing No.505 of 2015. The learned Additional Commissioner, Aurangabad in Case No.2015-ROR-IV-505 by its order dated 17th November, 2017 also held that these suits are dismissed. Hence, revision was dismissed.

3 The learned counsel for the petitioner pointed out that these suits are pending in the Trial Court. He filed roz-nama/daily sheets of those two suits on record showing the date of passing of impugned order which shows that those suits are pending. However, the concerned authorities failed to consider these aspects and erroneously passed the impugned order without confirming fact that those suits are not dismissed but are pending in the Civil Court.

4 The respondents are served. They remained absent. Hence, the petition proceeded in their absence.

5 Perused both the impugned orders passed by the

authorities and the *roz-namas* of the suits, which are marked as 'X' and 'Y' for identification. The decisive facts are that both the suits are yet pending in the Trial Court and not disposed of. Thus, the concerned authorities erred in holding that the suits are dismissed against the petitioner and thus, dismissed these proceedings illegally. Considering all these aspects, it is held that the impugned orders passed by the authorities are perverse and illegal and deserve to be set aside. The writ petition deserves to be allowed with directions to rehear these cases on merit afresh. Hence, the following order:-

ORDER

- I. The writ petition is allowed in terms of prayer clause "B".
- II. The learned Additional Collector, Latur is directed to decide Appeal No.2015/RTS/A-11 afresh on merits, within a period six months from the date of receipt of copy of this order.
- III. No order as to costs.

[SANJAY A. DESHMUKH, J.]