

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

CIVIL REVISION APPLICAITON NO. 56 OF 2023

**PRAKASH VISHWANATH PATIL AND OTHERS
VERSUS
SHANTABAI SURESH PATIL**

...
Advocate for Petitioners : Mr. Dhorde Vikram R.

**CORAM : R.M. JOSHI, J.
DATE : 03rd May, 2023**

PER COURT :

1. As per order dated 27th April, 2023, affidavit of Prakash Vishwanath Patil is filed on record.

2. On going through the said affidavit this Court finds that there is no statement made therein corroborating to the statement made by his counsel and as recorded in para no. 3 of the order dated 27th April, 2023. When the counsel for the applicant was asked about the same, he submitted that in fact on 27th April, 2023, he never made such statement which is recorded in paragraph no. 3 of the order. According to him, what he has stated is that he would file affidavit of this client in this regard.

3. At this stage, this Court would like to clarify that whatever has been recorded in paragraph no. 3 of the order dated 27th

April, 2023, is in accordance with statement made across bar and what has transpired in this Court.

4. Perusal of the record shows that initially i.e. on 21st April, 2023, a statement was made by the learned counsel for the applicants that the Trial Court has erroneously recorded in the impugned order dated 07th February, 2023, that there is the map of surveyor which is filed along with the plaint. In view of the said statement, which intended to cast aspersions against the Judge of Trial Court, record and proceedings were called.

5. On perusal of record and proceedings, it was found that there is one map in the said proceedings. After going through the record and proceedings and after it was seen by learned counsel for the applicant that such map exists in the record of the Trial Court, a statement was made that no such map was there in the proceedings when the impugned order was passed. In view of this serious allegation, the learned counsel was called upon to file affidavit of the appellant in respect of his said contentions. Considering nature of statements made since 21st April, 2023, this Court directed applicants to file an affidavit.

6. Affidavit filed today of Prakash Patil, however, is not satisfactory. Neither it corroborates statements made across bar nor it discloses as to whether any instructions to that effect were given to counsel.

7. It is further seen that affidavit of Prakash also records in paragraph no. 11 as under :

“11. I say that even when my Advocate representing myself in the said suit was conducting the Application below Ex-25 and when he was categorically raising the objection about no map being filed in compliance of provisions of Or.7 R.3 (Bombay amendment) even then no map was brought to the notice of the said Advocate during the proceedings till the date of arguments of my advocate are over.”

8. The statement coupled with the statements made before this Court by counsel for applicants clearly show that an enquiry needs to be conducted as to whether the contention of the applicant in this regard is correct or otherwise. If the contention is found to be incorrect, this is nothing but an attempt interference in judicial process and an attempt to malign image of Judiciary and Trial Judges. If any substance is found in the allegations, then appropriate action needs to be taken against the concerned.

9. In view of the above, the Principal District Judge, Jalgaon, is directed to conduct an enquiry into the issue as to whether there was any map filed in the proceeding and such map was there on record before passing of order dated 07th February, 2023, below Exh. 25 in RCS No. 45 of 2018. Learned Registrar Judicial to forward record and proceedings of RCS No. 45 of 2018 to Principal District Judge, Jalgaon, through special messenger. Learned Principal District Judge, to keep file in his personal custody till conclusion of enquiry. After enquiry is over and report is submitted to this Court, original record and proceedings be made over to Trial Court by sending one set of photocopy of entire proceeding to this Court along with report.

10. The said enquiry be conducted within a period of two months. Report shall be forwarded to this Court on or before 30th June, 2023. Place this matter on board on 03rd July, 2023, for taking further action.

[R.M. JOSHI, J.]

SPChauhan