

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

**WRIT PETITION NO.12563 OF 2019
WITH
CIVIL APPLICATION NO.14719 OF 2019
IN WP/12563/2019**

**BALASAHEB MOHANIRAJ PAWAR AND OTHERS
VERSUS
THE DISTRICT COLLECTOR AHMEDNAGAR AND
OTHERS**

...
Advocate for the Petitioners : Shri V.H. Dighe i/by Shri Wagh
Shirinivas S.

AGP for Respondents 1 and 2/State : Shri S.G. Karlekar
Advocates for Respondents 3 to 13 : Shri M.A. Dond
Advocate for Respondent 14 : Shri Rahul R. Karpe

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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 19th August, 2023

Per Court :-

1. After this matter was heard for sometime, we called upon the learned Advocate for the Petitioners to take instructions as regards the registered Will Deed dated 11.01.1985 that is executed by Anusayabai Bhika Pawar in respect of the land Gat No.233 (Survey No.158/1) to the extent of 3 H 35 R at village Wadala Mahadeo, Taluka Shrirampur, District Ahmednagar.

2. The learned Advocate for the Petitioners submits, on instructions, that the impugned order of the Sub Divisional Officer dated 04.09.2019 can be set aside and the matter can be referred to the Sub Divisional Officer, Shrirampur. The Petitioners would assail the registered Will Deed dated 11.01.1985 by adverting to a statutory remedy as is permissible in law. Thereafter, the Sub Divisional Officer could proceed with the claim of the Petitioners after the concerned Court renders its decision on the registered Will Deed.

3. The learned Advocate representing Respondent Nos.3 to 13 as well as the learned Advocate representing Respondent No.14, are agreeable.

4. In view of the above, **this Writ Petition is partly allowed**, by consent, as under:-

(a) The impugned order dated 04.09.2019 is set aside and the proceeding bearing No.Khanjma-01/19/pra.kra.20 Wadala Mahadeo/ Ka.vi.390/ sankirna-1, stands restored to the file of the Sub Divisional Officer, Shrirampur.

(b) After the proceedings in connection with the registered Will Deed dated 11.01.1985 culminate into a final order, the said order shall be placed before the Sub Divisional

Officer.

(c) Thereafter, the Sub Divisional Officer would issue notices to all the litigating parties including Respondent No.14 (Bhausahab Patilba Perne), who shall be added to the proceedings, if not already added, and thereafter, deal with the claim of the Petitioners in the light of the contentions of all the litigating parties, on it's merits.

5. The pending **Civil Application** would not survive and **stands disposed off**.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)