

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1644 OF 2023

Rajani Bhalchandra Shukla and Anr.

.. Petitioners

Versus

Bharti Brahamnarayan Dixit and Ors.

.. Respondents

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- Ms. Pratibha Shelake i./by the Laureate for Advocate for Petitioners
- Mr. Vishal Kanade a/w. Mr. Abhishek Bhadang, Mr. Ishwar Nankani and Mr. Husefa Khokawala i./by M/s. Nankani and Associates for Advocates for Respondent No.1
- Mrs. V. S. Nimbalkar, AGP for Respondent Nos.40 and 41

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 15, 2023

P.C.:

1. Heard Ms. Shelake, learned Advocate for Petitioners, Mr. Kanade, learned Advocate for Respondent No.1 and Mrs. Nimbalkar, learned AGP for Respondent Nos.40 and 41 for sometime and perused the record and pleadings of the case.

2. The present Writ Petition takes exception to the order dated 15.12.2022 passed by the learned SDO, *interalia*, condoning delay of 55 years to challenge the mutation entry.

3. Ms. Shelake and Mr. Kanade would jointly submit that admittedly substantive Special Civil Suit No.24 of 2020 in respect of partition of the properties between parties is filed and pending before the Civil Court at Palghar. Undoubtedly, the challenge to the mutation entry is

also in respect to the inclusion of the name of Respondent No.1 in the Revenue Records of the properties which are the subject matter of partition.

4. Be that as it may, the inclusion or exclusion of the names of the parties would certainly not govern the right, title and interest of any property which are admittedly ancestral properties in respect of which partition suit is pending. All such Revenue entries / mutation entry would undoubtedly be subject to the final outcome of the Special Civil Suit No.24 of 2020 and ultimately would be governed by the decree passed in the said suit.

5. Hence, in view of the above position, it is directed that all proceedings before the Revenue / Statutory Authorities in respect of Mutation / entries in revenue record as on date, shall stand stayed and would be subject to the outcome of the decree / judgment / order passed in Special Civil Suit No.24 of 2020 and in any further proceedings taken out therein in accordance with law.

6. This Court has not expressed any opinion with respect to the impugned order at this stage and the order shall remain as it is. Needless to state that the Trial Court will not be influenced by any observations and findings in the impugned order while deciding the suit on its own merits.

7. Mr. Kanade would submit that Respondent No.1 has filed

impleadment Application before the Trial Court in the Special Civil Suit, being one of the legal heirs. Be that as it may, the same would also be governed and decided on its own merits in accordance with law.

8. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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