

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3086 OF 2004

Mukhtar Ahmed Abdul Razzaq Shaikh and Ors. ...Petitioner

Versus

Leelavati Laxman Sonawane and Ors. ...Respondents

ALONG WITH
INTERIM APPLICATION (ST.) NO.5505 OF 2023
(Not on Board)
IN
WRIT PETITION NO. 1983 OF 2005
(Not on Board)

Leelavati Laxman Sonawane and Anr. ...Petitioner

Versus

Leelavati Laxman Sonawane and Ors. ...Respondents

...

Dr. Uday P. Warunjikar a/w Ms. Sonal Chavan, for Petitioner in Writ Petition No.3086 of 2004.

Mr. P. N. Joshi, for Petitioner in W.P. No.1983 of 2005.

Mr. S.D. Rayrikar, AGP for Respondent - State.

...

CORAM : SANDEEP V. MARNE, J.

DATE : SEPTEMBER 12, 2023.

P.C.:

1. By this Petition, Petitioner challenges order dated 15 January 2004 passed by the Additional Commissioner, Nashik Division rejecting the revision application filed against the order passed by the Additional Collector

Nashik on 17 July 2003. The dispute amongst the parties is about mutation entry No.4621 at Village Chunchale, Taluka Nashik. It is common ground that during pendency of the present Petition, a substantive suit bearing Regular Civil Suit No.340 of 2005 concerning the very same property covered by Mutation Entry No.4621 has been decided by Judgment and order dated 16 July 2013. The suit has been decreed in favour of Plaintiffs therein who happen to be the Petitioners in this Petition. It appears that the Respondents herein, who were defendants in the suit, had filed counterclaim which has been dismissed. It appears that the defendants in the Suit have filed Appeal challenging judgment dated 16 July 2013. Thus, the rights and entitlements of the parties with regard to the land in question would now be governed by the final order that may be passed in the Appeal.

2. In that view of the matter, no purpose would be served in determining the correctness of the impugned order passed by the Additional Commissioner.

3. All the contentions of the parties in the Appeal are left open.

4. With above observations, Writ Petition No. 3086 of 2004 is disposed of.

INTERIM APPLICATION (ST.) NO. 5505 of 2023 :

5. Interim Application (st.) No.5505 of 2023 has been filed for restoration of Writ Petition No.1983 of 2005 which is dismissed by order dated 1 April 2021.

6. For the reasons stated in the interim Application the same is allowed. The Petition is restored. Interim Application (st.) No.5505 of 2023 is disposed of.

WRIT PETITION NO. 1983 OF 2005 :

7. Even in Writ Petition No.1983 of 2005, the dispute is about measurement of the land which is covered by the decree dated 16 July 2013 passed in Special Civil Suit No.340 of 2005. Therefore, even the issue involved in Writ Petition No.1983 of 2005 would ultimately be governed by the civil proceedings filed between the parties. Therefore, it would not be necessary to decide the Writ Petition No.1983 of 2005 on merits.

8. All the contentions raised by the parties in Writ Petition No.1983 of 2005 are left open, to be agitated in pending appeal.

9. Writ Petition No. 1983 of 2005 is accordingly disposed of.

(SANDEEP V. MARNE, J.)