

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10191 OF 2018

Shri. Sanjay Laxman Thorat

.. Petitioner

Vs.

Superintendent of Police Pune Rural & Anr.

.. Respondents

ALONG WITH

INTERIM APPLICATION NO.7747 OF 2023

IN

WRIT PETITION NO.10191 OF 2018

Suresh Dasharath Bhalerao & Ors.

.. Applicants

IN THE MATTER BETWEEN

Shri. Sanjay Laxman Thorat

.. Petitioner

Vs.

Superintendent of Police Pune Rural & Anr.

.. Respondents

- Mr. Sanjay Kshirsagar, for the Petitioner.
- Ms. Kartikee Korgaonkar i/b. Mr. P.G. Chavan, for the Applicant/Intervener.
- Ms. M.P. Thakur, AGP for Respondent No.1-State.
- Mr. R.N. Gite a/w. Mr. Rohit Gorade & Ms. Sunita Warang, for Respondent No.2.

**CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, JJ**

DATE : 6th JULY, 2023.

P.C. :

1. We have heard this matter for some time.
2. From the pleadings halfheartedly made by the petitioner and the documents placed on record, we find that even though the order passed on 13.06.2016 by the Tahsildar, Daund under Section 5 of the Mamlatdars' Courts' Act, 1906 had been sought to be merged in the final decree that was to be passed in Regular Civil Suit No.330 of 2017, the petitioner has not mentioned anything about passing or not passing of the final decree by the Civil Court in Regular Civil Suit No.330 of 2017. The petitioner has stated about filing of compromise pursis dated 25.10.2017 in Regular Civil Suit No.330 of 2017, the subject matter of which was the same road as involved in the proceedings before the Tahsildar, Daund, but the petitioner has avoided to disclose anything about the fate of Regular Civil Suit No.330 of 2017. Once pursis for settlement of the dispute in respect of the said road had been signed by both the parties, ordinarily there would have been no reason for the Civil Court to not pass final decree by accepting settlement between the parties.
3. On going through the pursis (Exhibit 22), which is at Page No.48, we find that the petitioner has agreed to use 12 feet road passing from northern side of the bund of agricultural land bearing Gat No.375 instead of the road mentioned in the order dated 13.06.2016. If this is

so, the agreement between the parties would have the effect of modifying the order dated 13.06.2016; but unfortunately the petitioner has suppressed from this Court the material fact regarding passing or not passing of the decree by the Civil Court in Regular Civil Suit No.330 of 2017 following the settlement pursis at Exhibit 22 filed by the parties.

4. The fact mentioned above are indicating two things; firstly, the petition is bad in law for suppressing of material fact and secondly the petition is devoid of substance in view of the change of situation after passing of the order dated 13.06.2016 by Tahsildar, Daund.

5. In view of above, the petition deserves to be dismissed and it is dismissed accordingly.

6. In view of the final order passed in the Writ Petition, the Interim Application does not survive and the same is disposed of accordingly.

[RAJESH S. PATIL, J.]

[SUNIL B. SHUKRE, J.]