

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10895 OF 2018

Rakhamabai Sitaram Patil and Ors.

...Petitioners

V/s.

Mandabai Balaram Pawashe and Ors.

...Respondents

Mr. Sanjiv Sawant a/w. Ms. Bhakti Wast i/by. Mr. Abhishek Deshmukh, for the Petitioners.

Mr. Amol Joshi, for Respondent Nos.1 to 6.

Mr. C.D. Mali, AGP for Respondent Nos. 8 and 9.

CORAM : SANDEEP V. MARNE, J.

Dated : 13 September 2023.

P.C. :

1. By this petition, Petitioners challenge order dated 29 June 2017 passed by the Minister, Revenue thereby setting aside the order passed by the Additional Commissioner on 8 January 2015 and has directed deletion of names of Petitioners from the records of rights of the suit property.

2. Mr. Sawant, the learned counsel appearing for the Petitioners would point out that the Petitioners have filed Regular Civil Suit No. 489/2019 seeking partition of the suit property. Mr. Sawant has also

placed on record copy of order dated 13 January 2020 passed by the Joint Civil Judge Junior Division, Kalyan by which the Civil Court has directed Defendant Nos.7 to 10 therein to maintain *status-quo* in respect of the suit property. It appears that another suit bearing Regular Civil Suit No.453/2002 is also pending in the Court of Civil Judge Junior Division, Kalyan.

3. The effect of the order passed by the Minister is that the names of Petitioners are directed to be deleted from the records of rights of the suit property. The Minister, Revenue has passed the order, *inter-alia* observing that there has been oral partition between the parties. Whether there has been oral partition in the past or not, would be decided by the Civil Court in Regular Civil Suit No. 489/2019 and the orders passed by the Civil Court would prevail over the order passed by the Minister. Therefore, the rights and entitlement of the parties in respect of the suit property would ultimately be decided in the said two suits and the orders passed by the Civil Court in those proceedings would prevail over the impugned order dated 29 June 2017 passed by the Minister, Revenue. The Petitioners who are Plaintiffs in Suit No. 489/2019 are already protected by way of an interim order dated 13 January 2020. Mr. Sawant would express an apprehension that the injunction order is only against Defendant Nos. 7 to 10, who are legal heirs/ relatives of Defendant Nos. 1 to 6 and therefore it is necessary to direct Defendant Nos. 1 to 6 also to maintain status quo.

4. In that view of the matter, it is not necessary to determine correctness of the order passed by the Minister, Revenue on 29 June 2017 observing that his order would be subject to the final orders that may be passed by Civil Courts in the pending civil suits.

5. Since the order dated 29 June 2017 would be subject to final decision of civil suits, in one of which interim order of status quo is passed on 13 January 2020, it would be appropriate to direct that the Respondents shall not create third party rights, part with possession or alienate the suit property based on the order dated 29 June 2017 passed by the Minister, Revenue during pendency of the civil suits.

6. With the above observations, the Writ Petition is **disposed of.**

NEETA
SHAILESH
SAWANT

Digitally signed by
NEETA SHAILESH
SAWANT

Date: 2023.09.16
16:57:32 +0530

SANDEEP V. MARNE, J.