



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2719 OF 2019

Shri Parmeshwar S/o Kisnaji Butle .Vs. Sau. Pramila W/o Mahendra Wawre and
others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.N. Dongre, Advocate for petitioner.

Shri D.P. Thakare, Addl.G.P. for respondent Nos.2 to 4/State.

CORAM : ANIL S. KILOR, J.

DATED : 26/09/2023

1. Heard.

2. This matter pertains to revenue entries earlier recorded in the name of the petitioner relating to field survey No.298/2, Mouza Pimpalgaon, Tah. Hinganghat, District Wardha, on the basis of Will executed by the father of the petitioner in his favour. The said entry was recorded on 09.07.1990 and thereafter, the respondent No.1 who is the daughter of the petitioner applied to the Tahsildar in the month of April, 2010 for recording her name as tenant in the 7/12 extract.

3. In pursuance to the said application, the Tahsildar recorded the name of the respondent No.1 and others as tenant. A challenge against the same was raised before the Sub-Divisional Officer in Revenue appeal which came to be dismissed.

4. Thereupon, a Revision was filed before the Additional Collector, the same also came to be dismissed.

5. It is pertinent to note here that, in the meantime, a suit was filed by the petitioner for permanent injunction against the respondent No.1 and one Mahendra Pawan Wawre i.e. the son-in-law of the petitioner for permanent injunction which was decreed in favour of the petitioner.

6. The petitioner thereafter moved an application for review before the Additional Collector, pointing out the decree passed in his favour. However, the Additional Collector rejected the review application on the ground that while passing the order on revision, copy of decree was not on record.

7. From the record, it appears that, a specific ground was raised before the Sub-Divisional Officer in the appeal filed by the petitioner that before recording the mutation entry in the name of the respondent No.1, no hearing was granted or no notices were issued to the petitioner. However, while passing the order, the Sub-Divisional Officer has not dealt with the said ground and failed to record any finding in that regard and the same mistake was committed by the Additional Collector. Furthermore, it is necessary to consider the subsequent

event i.e. the decree passed in favour of the petitioner holding that the petitioner is in possession of the suit land.

8. As there is a violation of principle of natural justice, I am of the opinion that, the matter needs to be remanded back to the Sub-Divisional officer to decide the appeal afresh after hearing both the parties. Accordingly, I pass the following order:

- i) The writ petition is **partly allowed**.
- ii) The order dated 23.06.2017 passed by the Additional Collector in Revenue Appeal No.29/RTS-64/2012-13 and order dated 31.03.2012 passed by the Sub-Divisional Officer in Appeal No.63/RTS-64/2009-10, are hereby quashed and set aside.
- iii) The matter is remanded back to the Tahsildar and decide the same afresh after hearing both the parties.

Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE