

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

WRIT PETITION NO.5714 OF 2018

Suresh S/o Champatrao Raut .Vs. Rambhau S/o Gunaji Dongre 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 P.M. Shukla, Advocate for the petitioner.

Shri S.R. Bhalerao, Advocate for the respondent No.1.

Shri H.D. Dubey, A.G.P. for the respondent Nos.2 and 3/State.

CORAM : ANIL S. KILOR, J.

DATED : 27/06/2023

1. Heard.

2. The present matter is arising out of the proceeding filed for correction of area of land in revenue record in respect of field Survey No.312.

3. The sale deed executed by the petitioner in favour of Shri Rambhau Gunaji Dongre on 12.05.2005 shows that the land field Survey No.312, admeasuring 0.46H.R. are sold out by the petitioner in favour of Shri Rambhau Gunaji Dongre. However, subsequently taking the advantage of certain revenue entries, the respondents has started claiming ownership over the complete land. Therefore, for correction of area of land, a suit was filed by Shri Rambhau Gunaji Dongre for the relief of declaration of ownership and permanent injunction.

4. The said suit filed by the respondents came to be dismissed on 02.03.2022 holding that the respondent No.1 is the owner of the field Survey No.312 to the extent of area 0.46H.R. and not the complete land.

5. It is submitted that, the appeal is pending before the District Judge, Nagpur.

6. Since, the issue as regards the ownership of respondent No.1 over the land in question is involved in the suit and it was held against the respondent No.1 and appeal against the same is pending, the outcome of the said appeal will be binding on both the parties in this case, irrespective of the orders of the revenue authority.

7. In the circumstances, I am of the opinion that, without going into merits of the matter, the end of Justice would be sub-served if the petition is disposed of with liberty to move before the Sub-Divisional Officer afresh after the final decision in the appeal, to take entry into the revenue record as per the finding of the appellate Court.

Accordingly, I pass the following order :

8. The writ petition is **disposed of** with liberty to the petitioner and the respondent to move afresh before the

Sub-Divisional Officer on a decision in the appeal to correct the record as per the decision in the appeal.

9. After the impugned order was passed, the suit was decided and it was dismissed vide judgment and decree dated 02.03.2022. This decree will prevail over the revenue authorities and therefore, instead of going into merits of the matter, it would be appropriate to grant liberty to the petitioner to approach the Sub-Divisional Officer to correct the revenue entries according to the decree.

10. The writ petition is accordingly **disposed of** with liberty to the petitioner to approach the Sub-Divisional Officer to correct the revenue entries as per the finding recorded by the Civil Judge Senior Division, Nagpur in Special Civil Suit No.449 of 2019 as regards suit property.

JUDGE