



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3375 OF 2024

Ganesh S/o Mahadev Lokare And Another

VERSUS

The State Of Maharashtra
Through Collector And Other

...

Mr. G. J. Kore, Advocate for the Petitioner

Mr. S. B. Pulkundwar, AGP for Respondent Nos. 1 to 3

Mr. D. A. Mane, Advocate for Respondent No. 5

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CORAM : R.M. JOSHI, J

DATE : JULY 11, 2024

PER COURT :

1. By consent of both sides, heard finally at admission stage.

2. This Petition takes exception to orders dated 28.02.2024 passed below Exhs. 137, 138 and 139 by the learned Trial Court rejecting these applications.

3. Learned Counsel for the Petitioners submit that Petitioners filed suit seeking direction for allotment of plots and issuance of ownership certificate to the Plaintiffs/Petitioners in respect of property which is in their possession. It is his submission that for the purpose of deciding issues

involved in the suit, applications were filed for issuance of witness summons to Tahsildar vide Exh. 137 & 138 and the Collector or its authorized representative vide Exh. 139.

4. Perusal of the application Exh. 137 indicates that Petitioners/Plaintiffs had filed application for issuance of certified copies of the documents and it was informed to him that the documents asked for are not available with the office. In such circumstances, Trial Court was fully justified in not issuing witness summons by recording said fact.

5. Perusal of application vide Exh. 138 and order impugned shows that learned Trial Court has rejected application with observations that Petitioners are making applications one after another, in order to delay the trial, which is a time bound proceeding by order of this Court. Having regard to the nature of application, the order impugned cannot be faulted with.

6. Similarly, application vide Exh. 139 is filed to seek direction to Collector or his representative to

produce seven documents. These seven documents are purported applications filed by the Petitioners/Plaintiffs for regularization its possession over suit property. Application further indicates that out of seven, five documents are already exhibited by the Court and remaining two documents i.e., Application Exh. 28.09.2011 & 23.07.2019 can be proved by Plaintiffs by adopting due procedure of law. This can also done by the Plaintiffs by placing on record office copy of the applications with acknowledgment. Thus, no case is made out by Petitioners/Plaintiffs for issuance of witness summons to Collector or his authorized representative.

7. As a result of above discussions, Petition stands dismissed.

8. Needless to record that observations made herein above are restricted to the present Petition and Trial Court shall not to get influenced by the same.

(R. M. JOSHI, J.)

Malani