



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

919 WRIT PETITION NO. 9439 OF 2023

Meheboobkha Gulamkha And Others

VERSUS

The Tahasildar Sengaon And Others

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Advocate for the Petitioner : Mr. Dalal Arun Gopinath, Pathan A. F.

AGP for Respondents-State : Mrs. Kavita R. Jamdhade

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CORAM : R. M. JOSHI, J.

Dated : July 10, 2024

PER COURT :-

1. Heard by consent finally at stage of admission.
2. Petitioners / plaintiffs in Regular Civil Suit No.01/2014 takes exception to order dated 20/02/2023 passed below Exhibit 91 whereby the Trial Court has dismissed application filed by the plaintiff for seeking direction to respondent No.1 Tahsildar, Sengaon to place before the Court revenue record in respect of Survey No.37/3 new Gut No.220 of village Warkheda Tq. Sengaon Dist. Hingoli.
3. Learned Counsel for petitioners submits that the petitioners have specifically pleaded in the plaint about the relevant information being called from the revenue authorities and the same being not provided. It is further submitted therein that an application under Right to Information Act was rejected, against which appeal was filed and the appellate authority by order dated 03/03/2009 had directed the concerned revenue authorities to provide the documents in question. It

is submitted that thus, there is pleading in the plaint with regard to such documents being called by the plaintiff from the defendant No.1. It is submitted that in view of provisions of order 11 Rule 14 of the Code of Civil Procedure it is open for the Court to direct any party for production of document at any stage of the suit. He further submits that since the defendant No.1 has failed to examine himself, there was no other option for petitioner/ plaintiff but to file this application.

4. Perusal of the impugned order shows that the learned Trial Court has observed that the plaintiff has filed pursis at Exhibit 85 stating that plaintiff does not wish to lead any oral or documentary evidence. In this regard on the basis of submission made on behalf of the petitioner, it is clear that the plaintiff has examined himself and has also led documentary evidence but Exhibit 85 is the pursis of closing his evidence.

5. Perusal of the plaint shows that the documents were directed to be provided by the revenue authority in respect of the suit property by order dated 03/03/2009. There is nothing on record to indicate that the plaintiff has sought to pursue the said order and seek execution thereof. Pertinently the suit is filed after about five years of the said order. Apart from this, plaintiff after framing of the issues, examined

himself and closed the evidence by filing pursis at Exhibit 85. The learned Trial Court has observed that it is open for the plaintiff to obtain certified copies of those documents. In the light of the aforestated facts the plaintiff is indirectly trying to seek execution of order dated 03/03/2009 passed by the appellate authority under the Right to Information Act.

6. Apart from this, perusal of the issues framed by the learned Trial Court show that the documents sought to be called has no relevance to the decision of the issues involved therein. Plaintiff has filed suit for declaration that he is owner of the suit property as well as declaration in respect of the sale deed executed by defendant No.3 in favour of defendants Nos.4 and 5. In the context of the pleading of the parties and the issues framed by the Trial Court, and the stage at which the direction is sought against defendant No.1, it is not a fit case to cause interference in the impugned order while exercising the writ jurisdiction as no perversity is found in the same.

7. In view of the above, petition stands dismissed.

(R. M. JOSHI, J.)

vj gawade/-.