



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7941 OF 2016

Hafizabee Sikandar Pathan

VERSUS

Abdul Mittu Sayed Bhai Died By Lrs Sayed Fakir Sayed
Abdul Mittu And Ors

- Mr. V. V. Bhawthankar, Advocate for the Petitioner
- Mr. V. R. Sonwalkar, Advocate for Respondent Nos. 1 & 3 to 5

CORAM : KISHORE C. SANT, J
DATE : SEPTEMBER 09, 2024

PER COURT :

1. Heard parties.
2. This Petition is against order passed by the learned Divisional Commissioner (Revenue) in proceeding no. 2003/ROR Review Petition/104 dated 13.07.2004. The said order is challenged by filing this Petition on 07.07.2015.
3. By way of impugned judgment and order, the review came to be dismissed confirming the order passed by the learned District Judge dated 12.03.2003 in favour of the present Respondents. The Petitioner prays

for inserting her name in 7/12 extract of the suit properties. During the course of hearing, it is pointed out that mother of the Petitioner had filed one RCS No. 255/1960 for partition and separate possession. Though suit was decreed on 15.11.1968, still the same decree was not executed though execution proceeding was filed. The execution proceedings subsequently came to be dismissed as it was not prosecuted further. Now the Petitioner is relying on the judgment in the suit filed by the father of present Respondents bearing RCS No. 263/1995 against present Petitioner wherein the CJJD, Ambajogai by order dated 23.02.1999 dismissed suit. In the suit, a declaration was sought about the ownership and perpetual injunction in respect of the suit land i.e. Gut No. 418 admeasuring 3A 30R village Radi, Tq. Ambajogai, Dist. Beed.

4. Since the said suit is dismissed, Petitioner states that Respondents are not the exclusive owners of the property. Claim of the Petitioner is opposed on this.

5. During the course of argument, learned

Advocate Mr. Sonwalkar submits that against the said suit, i.e., RCS No. 263/1995 Appeal was preferred. The said appeal was dismissed as abated. However, the said appeal is now restored by order dated 02.05.2022. It is reported by learned Advocate Mr. Bhavthankar that Petitioner has filed Writ Petition against the order of restoration. Thus, proceeding arising out the said suit are still continued. Rights of the parties are thus subjudiced before the Civil Court.

6. In view of the above, this Court find that no case is made out to entertain the Petition. This Court is not inclined to entertain the Petition also on the ground of delay and laches though reasons are stated in paragraph 11 of the Petition. However, the Court is not satisfied with the said reasons when delay is more than 12 years. Hence, Petition stands dismissed. No order as to costs.

(KISHORE C. SANT, J.)