



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

WRIT PETITION NO. 9890 OF 2024

Shrikishan Sambhaji Shinde
Age 75 years, Occu. Advocate
R/o Prashant Nagar, Ambajogai,
Dist. Beed

... PETITIONER

VERSUS

1. The State of Maharashtra
Through Principal Secretary,
Revenue Department,
Mantralaya, Mumbai
2. Collector,
Collector Office, Beed
3. The Sub Divisional Officer
Sub Division Office, Ambajogai
4. Tahsildar
Tahsil Office, Ambajogai,
Ambajogai Dist. Beed
5. Talathi, Sajja Radi,
Tq. Ambajogai, Dist. Beed

... RESPONDENTS

....
Mr. Vivek Bhavthankar, Advocate for the Petitioner
Ms Neha Kamble, AGP for the Respondents – State
....

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 12.09.2024

JUDGMENT (PER – Y. G. KHOBRAGADE, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. By the present Petition under Article 226 and 227 of the Constitution of India, the Petitioner put forth prayer clauses (B) and (C) as under :-

“(B) A writ of mandamus or any appropriate writ or order of like nature may kindly be issued to resp nos 3 Sub Divisional Officer, Ambajogai and resp no 4 Tahsildar, Ambejogai directing them to execute orders dt 10/6/2024 exh “K” and order dt 11/7/2022 exh “D” for recording name of the petitioner in revenue record of agri land sy no 96 Gat no 294 adm 2A 34 G situated at village Radi Tq Ambajogai dist Beed.

(C) By Appropriate writ of Mandamus or any other writ or order of like nature may kindly be issued directing the respondent Tahsildar Ambajogai to provide police aid to the petitioner for protecting possession over the suit land ie gut no 294 adm 2A.06 R suit land at village Radi Tq. Ambajogai Dist Beed as per order dated 20/6/2024 issued by Tahsildar, Revenue, Collector office Beed addressed to Tahsildar Ambajogai Exh “M”.

3. We have considered the strenuous submissions canvassed on behalf of both the sides. Needless to say that the Petitioner/plaintiff already filed a R.C.S. No.2 of 2011 before the

learned Civil Judge Senior Division, Ambejogai, against the present Respondents and other private persons who are not party to the present Petition. In the said suit, the plaintiff had prayed for decree of declaration of ownership and restraining the defendants therein permanently from disturbing his possession over the suit land to the extent of 2 H 39 R out of Gat No.294 admeasuring 5 A 29 R situated at village Radi, Taluka Ambajogai, District Beed, based on Sale-Deed dated 11.02.1996. It is not in dispute that, on 08.06.2022, the learned Civil Judge Senior Division, Ambajogai, partly decreed said suit in pursuance of compromise deeds Exh.25 and 52 and granted declaration that the Petitioner/Plaintiff is the owner and in possession of the suit property and restrained the Defendant No.7 Sukhdev Shridhar Shinde, from causing obstruction and interfering with possession of the Petitioner/Plaintiff and counter claim of the Defendant No.7 came to be dismissed.

4. The learned Counsel appearing for the Petitioner submits that in pursuance of the judgment and order dated 08.06.2022, passed in R.C.S. No.2 of 2011, the Petitioner submitted application with Respondent No.5 Talathi, for mutation of his name in the revenue record, however, Respondent No.5 refused to accept said

application. Therefore, on the same day, the Petitioner submitted an application with the Respondent No.4 Tahsildar. However, on 14.06.2022, the Circle Officer mutated name of legal heirs of the deceased Nagorao Shinde in the revenue record vide Mutation Entry No.42/3 though Shri Sukhdev was very much aware about decree of suit on 08.06.2022 and the counter claim of defendant No.7 Sukhdev Shridhar Shinde, was dismissed. On 10.06.2024, the Sub Divisional Officer, Ambajogai, directed the Respondent No.4 Tahsildar to take necessary action as per the Rule, however, no such steps have been taken for carrying mutation entry in the revenue record. Therefore, the Petitioner approached with Respondent No.2 Collector with a request for grant of police protection, hence, the Respondent No.2 passed an order and called the report but no such police protection has been granted.

5. The learned Counsel appearing for the Petitioner further canvassed that Respondent No.3 Tahsildar failed to make mutation entry in the revenue record though the Petitioner obtained the judgment and decree dated 20-05-2024 in R.C.S. No.2 of 2011 and the original defendant No.7 Shankar Shridhar Shinde obstructed the Petitioner. Therefore, it is necessary to issue directions against the

Respondent no. 4 to execute the orders for recording name of the petitioner in revenue record in respect of land S. No. 96 Gat No. 294.

6. Needless to say that the Petitioner who is the Plaintiff in R.C.S. No.2 of 2011, though obtained the decree, but he has not instituted any proceedings for execution of Judgment and Decree passed by the Civil Court. Order 21 of C.P.C., provides execution of Decree. The Petitioner is having statutory remedy under Order 21 for execution of Judgment and decree dated 08.06.2022 passed by the competent Court in R.C.S. No.2 of 2011.

7. Therefore, this Writ Petition cannot be entertained. Hence, it is dismissed.

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

SMS