



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

995 CRIMINAL APPLICATION NO. 2607 OF 2023

Eknath Gangaram Mali.

... Applicant

Versus

1. Dashrath Ganpat Khalane (Mali).
2. Ganpat Gangaram Mali.
3. S. D. Gite, Circle Officer.
4. Vinayak Yashwant Patil.

... Respondents

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Advocate for Applicant : Mr. Amol Shivajirao Sawant.

Advocate for Respondent Nos.1 & 2 : Mrs. Charuta Sunil Deshmukh.

Advocate for Respondent No.3 : Mr. Parikshit P. Dawalkar

Advocate for Respondent No.4 : Mr. Pramod C. Mayure.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 18th July, 2024.

P.C.:

. Heard the learned advocate for applicant, the learned advocate for respondent Nos.1 and 2, the learned advocate for respondent No.3 and the learned advocate for respondent No.4.

2 The learned advocate for advocate submits that respondent No.2 is real brother of the applicant and respondent No.1

is the son of respondent No.2. Respondent Nos.1 and 2 have prepared false and fabricated partition-deed behind the back of the applicant and have got mutated the land of the applicant in their name, without consent of the applicant. The learned advocate further submitted that the signatures of applicant on the partition-deed are forged signatures. The applicant never signed on the said partition-deed. The applicant has filed criminal complaint against the respondents under Section 420, 465, 467, 468 and 471 read with 34 of the Indian Penal Code. The applicant had filed an application under Section 311-A of the Code of Criminal Procedure (for short "the Cr.P.C.") before the Trial Court seeking directions that respondents be directed to give specimen signatures and it be sent to the handwriting expert. But the said application has been rejected by the Trial Court. The learned advocate further submitted that the Trial Court has not considered the scope of Section 311-A of the Cr.P.C. Hence, he requested to allow the application.

3 It is the contention of the learned advocate for respondent Nos.1 and 2 that the criminal complaint pending before the Trial Court is at the stage of evidence before charge. Yet the charges have not been framed against the respondents. Hence, the application filed by the applicant is premature and she requested to reject the application.

4 The learned advocates for respondent Nos.3 and 4 submitted that respondent Nos.3 and 4 have no concern with the complaint filed by the applicant herein. They are Government officers. The allegations against them are that they mutated the entry of respondent Nos.1 and 2 in their name on the basis of partition-deed. Both the learned advocates submitted that respondent Nos.3 and 4 have mutated the entry as per the procedure and on the basis of partition-deed. Respondent Nos.3 and 4 were not aware about the allegations made by the applicant.

5 I have heard all the learned advocates. The complaint pending before the Trial Court is for evidence before charge. Yet the charges against the respondents have not been framed. The application filed by the applicant was premature. The applicant can file application after framing of the charge, hence, I pass the following order:-

ORDER

- I. The criminal application is dismissed with liberty to the applicant to file a fresh application under Section 311-A of the Code of Criminal Procedure or any appropriate application before the Trial Court after framing of charge.

- II. If such an application is filed, the Trial Court shall decide the same on its own merits without getting influenced by the observations of this Court made under this order.

[SHIVKUMAR DIGE, J.]

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