

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2429 OF 2020

Pandurang Vithoba Sutar and Ors.

.. Petitioners

Versus

The State of Maharashtra
Through District Collector,
Solapur and Ors.

.. Respondent

.....

- Ms. Poonam Pal i./by Mr. Sachin Hande, Advocate for Petitioners.
- Mr. R. S. Pawar, AGP for Respondent Nos.1 and 2 – State.
- Mr. Rohan Bhagat, Advocate for Respondent No.3.

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CORAM : MILIND N. JADHAV, J.

DATE : JULY 30, 2024

P.C.:

1. Heard Ms. Pal, learned Advocate for Petitioners; Mr. Pawar, learned AGP for Respondent Nos.1 and 2 – State and Mr. Bhagat, learned Advocate for Respondent No.3.

2. After hearing the parties on length on 23.07.2024, the following order was passed:-

“1. Heard learned Advocates appearing for the parties.

2. As delineated in the order dated 10.07.2024, today Petitioners (Org. Defendants) are before me. Once again they are unable to show any semblance of Defendants having any right in the Suit property in their favour. What Ms. Pal argues across the bar is that Defendants have been in possession of the Suit property for the last 150 years. If that be so, it is surprising that Defendants did not place any evidence in respect thereof nor argued the said fact by placing the material evidence before the learned Trial Court. Even before the District Court, Defendants have failed to show any substantive right in the Suit property. Even in the witness action of the Defendants,

Defendants have confessed to the fact that they do not have any documentary evidence which is reproduced in paragraph No. 24 of the learned Trial Court's judgment. In that view of the matter, only at the vehement request of Ms. Pal one opportunity is given to the Defendants to search for the said documents and present them before Court. It is made clear that if Defendants do not comply with the directions contained in the order dated 10.07.2024 and show any substantive right in the Suit property, the Writ Petition shall be dismissed on the next adjourned date.

*3. Stand over to 30th July, 2024. To be placed under the caption "**First on Board**".*

3. On that date request was made by Ms. Pal, learned Advocate for Petitioners that they must be given an opportunity to place on record documentary evidence to show the substantive right of Petitioners in occupying the suit property and it was infact while granting this leave made clear that Writ Petition shall stand dismissed if Petitioners fail in their endeavour to do so.

4. Today when the matter is called out, Ms. Pal would once again submit or rather repeat the same submissions which were advanced on the last date. All that she would submit is that the Petitioners ancestors were in occupation of suit land for carrying out business of carpentry for more than 150 years. She would submit that Petitioners are illiterate and therefore this is the reason why they do not have any documentary evidence to show that the suit land is ancestral property belonging to them.

5. As delineated in the above order, in the witness action of the

Petitioners themselves and more specifically in their cross-examination, Petitioners have themselves confessed and admitted that they have not filed any documentary evidence that their ancestors or forefathers were owners of said land. Petitioners have also admitted the fact that they had no knowledge whatsoever about the ownership of said land and it was known to one of their uncle.

6. On being categorically asked with respect to payment of any assessment or tax to the Gram Panchayat by the Petitioners, the Petitioners in their cross-examination before the Trial Court have stated that they have no knowledge of the aforesaid at all as also they do not have knowledge of recording of any name or mutation.

7. On the Petitioners being confronted with a direct question when they realised about names of Defendants entered into the revenue record with respect to the suit land as to whether Petitioners have filed any complaint or any Application before the Statutory Competent Authorities, the answers given thereto is also a “No”. Such admission by the Petitioners who are Plaintiffs before the Trial Court itself supports the case of Defendants which is accepted and admitted by the learned Trial Court on the basis of documentary evidence presented by Defendants. Petitioners – Plaintiffs have produced before the Trial Court copy of Voters identity card and copy of Ration card and nothing else. These documents have been examined by learned

Trial Court and a categorical finding has been returned that they do not support the case of Petitioners – Plaintiffs to show that they are in possession of the suit land since time immemorial as claimed by them. It is also trite to mention that Ration card as also Voters identity card is no indicator of any right, title or entitlement to immovable property. Infact in my opinion they do not have any corroborative value and suit for entitlement is required to be proved on the basis of cogent and relevant documentary evidence pertaining to the suit property itself.

8. Considering the above, I am in complete agreement with reasons returned by the learned District Court in its judgment and order dated 04.02.2020 below Civil Miscellaneous Application No.42 of 2017 which is appended at Exhibit-C, page No.45 of the Petition. There is no reason to interfere with the said order as each and every reason given in paragraph Nos.5 to 8 of the said judgment and order is cogent and cannot be faulted with. The reasons of the Writ Petitioner that they being illiterate persons and do not understand the complexity of legal proceedings and they are carpenters busy with their work in remote village places cannot stand to test. Though Ms. Pal has attempted valiantly to argue the case of Plaintiffs – Writ Petitioners before me, her submissions on behalf of Plaintiffs – Writ Petitioners cannot be accepted and countenanced by this Court in view of the above findings returned by the learned Trial Court in the judgment and decree dated 10.02.2014 passed below Regular Civil Suit No.244 of

2002 and upheld by the learned Appellate Court by its judgment and order dated 04.02.2020. The impugned order is therefore upheld.

9. In view of the above, Writ Petition stands dismissed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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by HARSHADA
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SAWANT
Date: 2024.07.30
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