



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 830 of 2024

M/s Lucky Developers and Builders Yavatmal, A partnership Firm
through its Partners

Versus

Shri Balaji Mandir Deosthan Trust and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri M.P.Dhruv, Advocate for the petitioners.

Shri H.R.Dhumale, AGP for the respondent nos. 6 to 8/
State.

CORAM : ANIL S. KILOR, J.

DATED : 5th FEBRUARY, 2024.

Heard.

2. Rejection of the suit for permanent injunction vide order dated 26th September, 2023 on the ground that it is not maintainable, by the learned Joint Civil Judge, Senior Division, Wardha in Regular Civil Suit No. 289 of 2023, is under challenge in this writ petition.

3. The petitioners are the plaintiffs in a suit filed for permanent injunction with the following prayer clause which reads thus:

“1. To grant permanent injunction in favour of plaintiff and against the defendants more particularly defendant nos. 6 and 8 thereby restraining them permanently from mutating the names of defendant No.1 in Revenue Record in place of name of plaintiff without due process of law.”

4. From the above referred prayer clause, it is apparent on the face of the record that the petitioners are seeking to injunct the defendants more particularly defendant nos. 6 and 8 from mutating the name of defendant no.1 in revenue record in place of name of plaintiff, without due process of law.

5. The learned counsel for the petitioners submits that under Order VII Rule 11 of the Code of Civil Procedure, the suit can be rejected as a whole and not partially against the three of the defendants. He submits that learned trial Court has held that the suit is not maintainable against the respondent nos. 6 to 8, as such the impugned order is erroneous. It is submitted that there is no bar under Section 158 of the Maharashtra Land Revenue Code, 1966 to file the suit seeking the relief as prayed in the suit. He accordingly submits that the order is erroneous and is liable to be quashed and set aside.

6. On the other hand, learned Assistant Government Pleader strongly opposed the present writ petition and supports the impugned order.

7. In light of rival contentions of the parties, I have perused the record and the impugned order.

8. The learned trial Court has recorded the reasons for dismissal of the suit in paragraphs 4 and 5 which read thus:

“4] I do not find myself in agreement with the submission made on behalf of the plaintiffs for the reason that taking of mutation entries in the record of rights is the exclusive jurisdiction of the Revenue Authority. It is well settled that revenue entries do not confer any title in respect of immovable property. Therefore, though the validity of the sale-deed in favour of the plaintiffs is sub-judice before this Court, the Revenue Authority can not be restrained from exercising their jurisdiction. Needless to mention that the revenue officers are bound to give effect to the decree passed by the Court and to effect mutation in consonance with the adjudication of rights of the parties made by the Civil Court. The plaintiffs if feel aggrieved by the mutation entry taken by the Revenue Authority, the remedy is provided in Chapter XIII of the M.L.R Code. The bar under section 158 of the M.L.R. Code is absolute.

5] In view of the averments made in the plaint and the reliefs claimed in the suit against the State Government and its officers, the suit is not maintainable. Thus, the suit appears from the statement in the plaint to be barred by the provision of law. Therefore, the plaint is liable to be rejected. Hence, the following order....”

9. On perusal of the above referred reasons recorded by the learned trial Court, I have no hesitation to hold that the learned trial Court has not committed any error in rejecting the plaint. The statement of the learned counsel for the petitioners that the plaint can only be rejected as a whole and not against some

defendants, is found to be misconceived for the reason that there is no order rejecting the plaint against the defendant nos. 6 to 8 only but the plaint as a whole is rejected under Order VII Rule 11(d) of the Code of Civil Procedure.

10. In the circumstances, as I do not find any merit in the present writ petition. The writ petition is dismissed.

[ANIL S. KILOR, J.]