

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2070 OF 2024

Dinkar Dhanaji Borse and ors. ...Petitioners

Versus

Bhavrao Daga Borse and anr. ...Respondents

Mr. Amey Deshpande, i/b J. D. Khairnar, for the Petitioners.

CORAM: N. J. JAMADAR, J.

DATED: 24th APRIL, 2025

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PC:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to an order dated 30th September, 2023 passed by the learned Civil Judge, Malegaon, whereby an application (Exhibit-15) preferred by the petitioner – plaintiff to refer the issue of alleged discrepancy and correction in the scheme settled under the The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947, (“the Consolidation Act, 1947”), came to be rejected.
3. The plaintiff had instituted a suit for a declaration that the order passed by the Sub-Divisional Officer, Malegaon, in the RTS (Encroachment) Application No.52 of 2020 was illegal and not binding on the plaintiff and the consequential relief of injunction. In the said suit, an application for temporary

injunction was filed and the trial court was persuaded to grant injunction to stay the execution, operation and implementation of the order passed by the Sub-Divisional Officer for removal of encroachment over 19 R. land, which the plaintiff has allegedly committed.

4. It is the case of the plaintiff that in the consolidation scheme settled for village Shirsondi, Taluka Malegaon, the area has been incorrectly recorded. Though the entries are made in the record of rights of the suit properties yet actual possession of 19 R. disputed land is with the plaintiff.

5. This being the case of the plaintiff, it is for the plaintiff to work out his remedies under the provisions of Section 32 of the Consolidation Act, 1947. Reference by the Civil Court is not at all warranted. It is for the plaintiff to establish that the area has been incorrectly recorded in the consolidation scheme. Thus, the learned Civil Judge committed no error in rejecting the application.

6. Resultantly, no interference is warranted in the impugned order.

7. The petition stands dismissed.

[N. J. JAMADAR, J.]