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

**WRIT PETITION NO. 4254/2024**

Bablu Yeshwantrao Yerane & others

...VERSUS...

Devlal Shalikram Bhelave & others

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

Court's or Judge's orders

Ms. A.M. Telange, Advocate for the Petitioner(s)  
Shri V.R. Borkar, Advocate for the Respondents

**CORAM :- M.S. JAWALKAR, J.**  
**JANUARY 22, 2025**

- (1) Heard learned Counsel for the respective parties.
- (2) The Petitioner challenges the order dated 18/03/2024 passed below Exhibits 5 & 29 in Regular Civil Suit No. 112/2021 by the learned 2<sup>nd</sup> Joint Civil Judge Senior Division, Gondia.
- (3) It is the contention of the Petitioner that their Application under Section 36B of the Bombay Prevention of Fragmentation & Consolidation of Holdings Act, 1947 (hereinafter referred to as "the said Act") came to be rejected without considering the fact there are serious disputes as regards the measurement of the land and the Revenue Authority has committed multiple mistakes while conducting the measurement. Therefore, the Application was moved

for referring the issue to the Competent Authority and for grant of stay to the Civil Suit.

(4) The learned Trial Court partly allowed the Application at Exhibit 5 for grant of temporary injunction. Both the parties were directed to maintain *status-quo* in respect of the Suit Property till further orders and Application below Exhibit 29 came to be rejected. Exhibit 29 is the Application filed by the Defendants to frame issue as per the provisions of Section 36B of the said Act. It is held by the learned Trial Court that it is impossible to find out as to who is in the actual possession over the Suit Property and on which basis and also it is not possible to decide the said issue without trial, whether Revenue Record is properly maintained or not by the Revenue Authority. Moreover, if there are wrong entries taken in record, the Defendants are having remedy under the Maharashtra Land Revenue Code.

(5) After going through the impugned order, I find that it was not appropriate stage to move the Application under Section 36B of the said Act by the Petitioner. As such, I do not see any illegality in the impugned order passed by the learned Trial Court below Exhibit 29. Therefore, the Writ Petition stands **dismissed**. However, Petitioner is granted liberty to challenge the impugned order to the extent below Exh 5 only before appropriate Court. Insofar the impugned order to

the extent below Exhibit 29 is concerned, the same is hereby confirmed.

**(M.S. JAWALKAR, J.)**