MHPA110010552022

ORDER BELOW EXH.05.

The plaintiffs have filed present application under Order 39 Rule 1 and 2 of the Code of Civil Procedure, seeking temporary injunction against the defendant nos.2 to 4 for restraining them from changing the revenue entry for the land Gut No.36 of village Nathra, Tq. Pathri on the basis of sale-deed dated 27.05.1991, in favour of defendant no.5.

02. That, the property in Gut No.36, ad-measuring 01 H 38 R, situated at village Nathra, Tq. Pathri, as well described in para 1 of the plaint, is the subject matter of present application. Hereinafter called as suit property.

03. Having regard to the nature of application following points arise for my determination and I have recorded my findings against each of them for the reasons stated below:

	POINTS	**FINDINGS**
1)	Whether the plaintiffs have *prima-facie* case ?	...In the negative.
2)	Whether the balance of convenience lies in favour of the plaintiffs ?	...In the negative.
3)	Whether the plaintiffs would suffer irreparable loss in case the temporary injunction is not granted ?	...In the negative.
4)	What order ?	...As per final order.

REASONS

POINT NOS.01 TO 03:

04. Perused the pleading along with documents filed on record. Heard the Ld. Advocate for plaintiff. The suit proceeded without say/written statement of defendant nos.1 to 8.

05. The plaintiffs have come with the case that they are the members of joint family. The Gut No.36, ad-measuring 01 H 38 R is the joint family property of plaintiffs. Originally, the Gut No.36 was owned by one Sitaram Katare and Sopanrao Katare. After their demise the said property was succeeded by Bhau, Sakharam, Pandharinath, Rangnath, Narhari, Bhaskar and Gangadhar as per the mutation entry no.233. The land to the extent of 57 R in Gut No.36 was sold by Bhau, Sakharam, Pandharinath, Rangnath, Narhari, Bhaskar and Gangadhar. However, presently Bhau Katare, Pandharinath, Sopanrao and Bhaskar are dead and only the executant Gangadhar and Narhari are aliving. The sale-deed is being challenged by the LR's of deceased executants. The defendant nos.5 to 8 got executed the sale-deed dated 27.05.1991 fraudulently since the executants were illiterate persons. There was collusion between defendant nos.5 to 8 and Sub Registrar, Pathri, who prepared two different sale-deeds and made the vendors to sign on the sale-deed favourable to them. The sale-deed was nominal and bogus, therefore, none of the defendants haste for mutation entry. However, on 14.09.2022 the plaintiffs came to know the existence of said sale-deed when they received the notice for mutation from Talathi. The defendants kept concealed the sale-deed for years together since 1991 and initiated proceeding for mutation entry. The defendants intend to disposses the plaintiffs from suit property under guise of illegal sale-deed and proposed mutation entry. Therefore, the plaintiffs filed present suit.

06. The defendants failed to file their say/written statement despite due appearance. Therefore, the suit proceeded further. The application in hand remained unchallenged.

07. Needless to say the correction, deletion and changes in revenue record is exclusively the domain of revenue authorities and they are competent having duly empowered under the Maharashtra Land Revenue Code. However, the plaintiffs seeks the injunction against the defendants for restraining them from effecting any changes in revenue records. Certainly, passing any such prohibitory order would be outreaching over the powers of revenue authority which is certainly not the object of **Section 41 of Specific Relief Act**. Moreover, in the judgment of **Smt. Anandi Bhicaro Veluskar Vs. Kustanand Vithu Veluskar** reported in 2006 All M.R. the Hon'ble Parent High Court, Bench at Panaji held that the Appellate Court has no jurisdiction to direct the revenue authorities to insert the names of any person in survey or revenue records. The Hon'ble Court observed that, *"It is neither the function nor the jurisdiction of the Civil Court to issue direction for making or deleting the entries in the record of rights. That is the function assigned to the revenue authorities under the Maharashtra Land Revenue Code".*

08. On the same analogy, certainly the Civil Court has no jurisdiction to direct the revenue authorities or to prohibit them to effect any changes in the area of block numbers. It is the exclusive domain of revenue authorities and Land Record

Department. Therefore, the relief claimed by plaintiffs in the form of injunction against the revenue authority is prima-faciely not tenable. Accordingly, I hold that the plaintiffs instead of approaching the proper forum claiming the relief from Civil Court which is not the domain of latter.

09. The record reveals that the plaintiffs have filed the copy of 7/12 extract vide Exh.33. The perusal of which transpires that the mutation entry in the name of defendant no.5 appears to have been taken on 24.01.2023 vide the mutation entry no.1781. Therefore, the present application rendered infructuous. Hence, answering the points in negative, I pass the following order.

O R D E R

1. The application Exh.05 stands rejected.
2. Costs in main cause.

ASHFAQ ALI RAZA ALI SAYED
Digitally signed by ASHFAQ ALI RAZA ALI SAYED
Date: 2023.07.26 15:49:58 +0530

Date :- 26.07.2023

(A.R. Sayed),
Civil Judge, Senior Division,
Gangakhed.