

Order Below Exh.70 in RCS No.350/2016**CNR No.MHST180025052023**

This application is moved by the plaintiffs contending that on Exh.29, the Hon'ble Court has framed in all six issues. But the issues are not framed by taking into account the contention of the plaintiffs in the plaint. Gat No.574 at village Bhurakwadi, Tal. Khatav, Dist. Satara was measured by T.I.L.R in the year 2005 by M.R No.1183, 1184 and 1186. But in the map prepared by T.I.L.R, मालपड and तालपड area is not consistent with the actual position on spot. On the spot, there is no such मालपड and तालपड area present in the said gat number. Defendant Bhiku Mali has filed RCS No.218/1987 before the Civil Court, Vaduj. In that suit, T.I.L.R was appointed as a Court Commissioner. But the measurement carried out in view of M.R No.403 was not in accordance with, the division(फाळणी) carried in the year 1957. Without any such division at the time of preparation of gat number, defendant got excess area on 7/12 extract. As per the division of the gat number, there is no such encroachment in Gat No.574 and the area which belonged to plaintiffs and defendant is correct. There is a report filed by the Commissioner in M.R No.403, that as per the *Phalni Bara* effected in the year 1978, the 7/12 extracts prepared are wrong, and they cannot be corrected. When defendant came to know about the said fact, he had withdrawn that suit. Thereafter, defendants No.5 to 10, without getting the 7/12 extract corrected, got their lands measured for which, the officers of defendants No.1 to 4 helped them. The map to that respect was also prepared. All the above facts are mentioned in the plaint of the plaintiffs. As per the 7/12 extract of the Gat No.574, defendants No.5

to 10 have 0.61R. There is no such uncultivated (पोटखराब) land in the said gat. But surveyor in collusion with officers of defendants No.1 to 4 have prepared false record and have shown uncultivated land as मालपड and तालपड area. There is no such uncultivated land, but due to the said remark on the 7/12 extract, defendants No.5 to 10 have got 0.82R in cultivation. They have got excess 0.20R land which is not legal. In the said measurement, the encroachment is shown at the hands of plaintiffs which is totally wrong. Accordingly, BND case No.6/2006 was filed. Thereafter, plaintiffs filed an application calling information to State Information Commissioner, Pune. Seeking the information about the मालपड and तालपड area mentioned in the original sheet of map and of 7/12 extract of Gat No.574. Accordingly, the order was passed by the Commissioner directing the Land Record office to provide the said information to plaintiffs. In spite of said order from Commissioner, no such information was provided to the plaintiffs by the concerned office. In view of the above pleading of the plaintiffs an issue in this respect was required to be framed but not framed. Hence, defendant No.3 has disobeyed the order of higher authority, hence, liable for disciplinary action. Hence, by filing this application, plaintiffs have prayed for framing an issue as -

Whether defendant No.3 complied with the direction of State Information Commissioner, Pune and liable for disciplinary action for non-compliance ?

02. Defendants No.1 to 4 have failed to file their say to this application, hence, application proceeded without their say. Defendants No.5, 7 and 10 filed their say on Exh.72 and alleged that

suit filed by plaintiffs is for declaration of ownership and mandatory and perpetual injunction. Accordingly, by taking into account, the plaint and written statement, issues are framed, according to which, the Court is going to pass the judgment. The application filed by plaintiffs for framing additional issues is not a necessary issue. This Court has no jurisdiction to frame any such issue in respect of disciplinary action against defendant No.3 for non-compliance of the orders of State Information Commissioner, Pune. Hence, the proposed additional issue suggested by the plaintiffs is unnecessary and not relevant. Hence, defendants have prayed for rejection of this application.

03. Heard argument on both the sides at length.

04. Plaintiffs have filed this suit for a declaration of ownership of plaintiffs over the suit property in view of the 7/12 extracts record of the year 1957 and for mandatory injunction for the correction of record to defendants No.1 to 4. Further, it is prayed that defendants No.1 to 10 be restrained from causing obstruction to the possession of the plaintiffs over the suit property. It is also prayed that the order passed by State Information Commissioner, Pune is not obeyed by defendant No.3 i.e. Deputy Superintendent of Land Record. Hence, disciplinary action be initiated against him. So far as the relief of mandatory, perpetual injunction and declaration of ownership and for correction of 7/12 extracts record is concerned, the civil Court has jurisdiction to decide the said issue. But whether defendant No.3 has committed disobedience of the order of State Information Commissioner and for that whether he is liable for disciplinary action

or not, cannot be decided by this Court. It comes within a jurisdiction of the concerned department. Plaintiffs have to approach the concerned authority in this respect. The proposed issue is not necessary for the just decision of this case. Hence, the issues framed by Ld. Predecessor on Exh.29 are as per the pleadings of both the parties. Hence, the application filed by the plaintiffs for framing additional issue is not tenable. Accordingly, I pass following order:

ORDER

The Application below Exh.70 stands rejected.

Date :23.09.2025.
Place: Vaduj.

(Smt. F. B. Baig)
Jt. Civil Judge Senior Division,
Vaduj.