

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.1127 OF 2019

Ramkripal Ramjas Upadhyay	Petitioner
vs	
State of Maharashtra an 11 Ors.	...Respondents

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Mr. Amogh Singh, i/b. Mr. D.P. Singh, for the Petitioner.

Mr. Kedar Dighe, AGP, for Respondent Nos. 1 and 2.

Mr. C.M. Korde, Senior Advocate, a/w. Mr. Pranav Nair, i/b. Mr. Kunjan Thakur, for Respondent Nos. 7, 9 and 12.

Mr. Roop Basu, i/b. The Law Point, for Respondent No.10-LIC.

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CORAM : S.C. GUPTA, J.

DATED: 24 APRIL 2019

P.C.:

. This petition challenges an order passed by the Sub-Divisional Officer, Mumbai Western Suburbs. The impugned order allows an appeal filed by Thakur family, who are represented by Respondent Nos. 3 to 9 to the present petition and one M/s. Sahakar Builders, Respondent No.12 herein, and directs entering of their names in the revenue records concerning Survey No.203, Hissa No.2 (Part) at Eksar, Borivali. The petition concerning the same property and involving the same members of Thakur family, as are represented by Respondent Nos. 3 to 9, challenging an order of Revenue Minister directing a similar entry of the names of Thakur family in the 'other rights' column of the

7/12 extracts concerning this very property has been admitted and by way of an interim order, the respondents, who represented members of Thakur family, have been directed not to create any third party rights of whatsoever nature on the strength of the impugned order of the Minister. Since the issues involved in the earlier petition, where Rule has been issued as noticed above, and those in the present petition overlap, it is in the interest of justice that Rule be issued in this petition and it should be heard along with the earlier petition (Appellate Side Writ Petition No.6748 of 2011). Hence, Rule.

2. It is agreed between the parties that pending the hearing and final disposal of the present petition, none of the parties, namely, the Petitioner in the present petition as well as Respondent Nos. 7 and 9 (members of Thakur family) and Respondent No.12 (M/s. Sahakar Builders) shall not create any further rights in favour of anyone in respect of the subject property, namely, Survey No.203, Hissa No.2 at village Eksar, Borivali. It is ordered accordingly. Learned Counsel for Respondent No.10 (Life Insurance Corporation of India), who claims to be the owner of this property, informs the Court that his client is in the process of challenging the impugned order before the revenue authorities under the Maharashtra Land Revenue Code and also agitate his case before the civil Court, in a civil suit already filed in this behalf. In case Respondent No.10 proposes to create any further rights in the subject property after successfully challenging the impugned order before the revenue authorities, it will seek suitable orders from this Court in the present petition before doing so.

3. It is clarified that this order shall not in any way prejudice the Petitioner's right to prosecute the contempt petition filed by him against the members of Thakur family, namely, Appellate Side Contempt Petition (Stamp) No.5137 of 2019.

4. It is pointed out by learned Counsel appearing for Respondent Nos. 7, 9 and 12 that Respondent Nos. 3, 4, 5 and 8 have expired. (In fact, even when the impugned order was passed this was so; the revenue appeal before the Sub-Divisional Officer was filed by their legal heirs.) The Petitioner is, in the premises, permitted to amend this petition by impleading legal heirs of Respondent Nos. 3, 4, 5 and 8 as party respondents to the present petition after deleting the names of deceased Respondents from the array of parties. The consent is given by learned Counsel appearing for Respondent Nos. 7, 9 and 12 on behalf of Thakur family. Such amendment to be carried out within two weeks. Re-verification is dispensed with.

(S.C. GUPTE, J.)