



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.568 OF 2025

1. Gajanan Laxmanrao Beedkar
2. Nagnath Laxmanrao Beedkar **.. Petitioner**

Versus

1. The State of Maharashtra
Through its Secretary,
Home Department, Mantralaya,
Mumbai.
2. The Superintendent of Police,
Jalna, District Jalna.
3. The Police Inspector,
Navapur Police Station, Partur, Dist. Jalna.
4. The Circle Officer, Ashti,
Tq. Partur, District Jalna.
5. Madalasabai Manmathappa Naralkar **.. Respondents**

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Ms. Anagha Pedgaonkar, Advocate h/f Mr. S. P. Urgunde, Advocate for the petitioner.

Mr. S. A. Gaikwad, APP for respondent Nos.1 to 3/State.

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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 19 AUGUST 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present petition has been filed on behalf of two brothers for directions to respondent Nos.2 to 4 to handover the suit land bearing Gut No.24 admeasuring 1 H 26 R situated at Banachiwadi, Taluka Partur,

District Jalna, by giving proper police protection. It is also the prayer that pending admission, hearing and final disposal of this petition, respondent No.4 be directed to decide the representation of the petitioners dated 17.10.2023 and act as per judgment and decree dated 12.10.2018 passed by the learned trial Court in Regular Civil Appeal No.237 of 2012.

2. Heard learned Advocate Ms. Anagha Pedgaonkar holding for learned Advocate Mr. S. P. Urgunde for the petitioners and learned APP Mr. S. A. Gaikwad for respondent Nos.1 to 4/State. There is no necessity to issue notice to respondent No.5.

3. Learned Advocate for the petitioners submits that the petitioners had purchased land admeasuring 1 H 36 R out of 8 H 34 R from Gut No.24 (Old Survey No.59) from respondent No.5 Madalasabai Manmathappa Naralkar by registered sale deed on 17.05.1994. Respondent No.5 had filed suit against the petitioners for cancellation of sale deed and perpetual injunction contending that she was taken to the Sub Registrar's office under the pretext of taking loan from the bank and there her thumb impression were taken on paper and she was defrauded. The said suit i.e. Regular Civil Suit No.48 of 2009 came to be partly decreed. The sale deed was declared as null and void and not binding on respondent No.5 herein. The petitioners were then restrained from creating any third party interest. But then the suit claim for

cancellation of sale deed No.1450 dated 17.05.1994 in respect of 68 R stood dismissed. The present petitioners and others filed Regular Civil Appeal No.237 of 2012 before the learned Principal District Judge, Jalna. The said appeal came to be allowed by judgment and decree dated 12.10.2018. The impugned judgment by learned Civil Judge Junior Division, Partur in Regular Civil Suit No.48 of 2009 was set aside. The said suit was dismissed. Now, the present petitioners are asking respondent No.5 to handover the possession, but she is not ready for the same and, therefore, the petitioners had requested that the police protection be given. The representation was made vide letter dated 17.10.2023. In fact, the petitioners are the legal owners of the suit land and they have right of possession. Petitioners have no other remedy and, therefore, they have approached this Court.

4. Learned APP appearing for respondent Nos.1 to 4/State submits that the remedy for the petitioners lies in institution of the suit, if at all they are not in possession.

5. The first and the foremost fact to be noted is that copy of the sale deed dated 17.05.1994 has been filed on record i.e. sale deed registered No.1450. It appears that there were two sale deeds on 17.05.1994 bearing Nos.1450 and 1451. In the sale deeds there has to be the recital about handing over possession. Accordingly, in sale deed

registered No.1450, we found that such recital is there which was in respect of land admeasuring 68 R. Similar would be the position as regards the other sale deed. The suit i.e. Regular Civil Suit No.48 of 2009 filed by respondent No.5 was for declaration and injunction and as aforesaid, it was partly decreed. Sale deed bearing No.1451 for 68 R was held to be not binding on respondent No.5 and was declared as null and void. In respect of suit claim for cancellation of sale deed No.1450, it was dismissed. The injunction was only in respect of creating any kind of obstruction to the possession of plaintiff over suit property to the extent of 68 R land i.e. vide sale deed No.1451. In short, it appears that the learned trial Judge held that respondent No.5 still possesses 68 R land involved in sale deed No.1451, but the Appellate Court in Regular Civil Appeal No.237 of 2012 appears to have dismissed the entire suit. That means, it was held that by those sale deeds the possession in respect of the lands mentioned therein was handed over by respondent No.5 to the present petitioners. It is then pleaded in the petition that respondent No.5 had approached this Court by way of filing Second Appeal No.342 and 343 of 2019 and the Second Appeals are still pending, but there is no stay granted by this Court. Now, by representation dated 17.10.2023 to the Circle Officer Ashti, Taluka Partur, District Jalna, both the petitioners have stated that though in the 7/12 extracts their names have been mutated in the ownership column,

yet respondent No.5 herein refused to handover the possession and forcibly cultivated the land and then it is stated that the police protection be granted for taking the possession.

6. This appears to be the classic example for unnecessary litigation on the criminal side. When the Second Appeals are still pending, the petitioners ought to have approached in that matter and to the utter surprise, it appears that they have taken a contrary stand than that appears to have been taken by them before the trial Court as well as the Appellate Court. Certainly, their contention that was though intentionally the entire judgment of the trial Court as well as the first Appellate Court has not been filed and only decree has been filed, yet it can be inferred that they had taken the stand that on the date of sale deed, the possession of the property which they had purchased, was handed over to them by respondent No.5. That contention was then appears to have been accepted by the first Appellate Court, still now the petitioners are contending that they are not in possession. In their representation dated 17.10.2023 of which copy has been given, they have not stated when respondent No.5 has taken forcible possession of both the lands. Further, when this representation was given on 17.10.2023, then why till filing of the present writ petition on 27.02.2025, no steps were taken by the petitioners in any form in Second Appeals and now, the petitioners are seeking direction to respondent Nos.2 to 4 i.e. Superintendent of

Police, Jalna, Police Inspector, Navapur Police Station, Taluka Partur, District Jalna and the Circle Officer, Ashti, Taluka Partur, District Jalna to hand over the suit land by giving police protection. For the land admeasuring 1 H 36 R that means the entire land under both the sale deeds, police protections are not given for taking forcible possession and when effective legal step on the civil side is available, no such prayer can be granted. There was no question of giving any direction to respondent No.4 to decide the representation when the substantive matters i.e. second appeals are pending before this Court.

7. When this is an unnecessary litigation, we pointed out to the learned Advocate for the petitioners that we would be imposing cost for taking unnecessary time of the Court. She prayed for leniency since she was holding over, however, we are not inclined to accept the same. Unnecessary litigation cannot be allowed to see the light of the next day. In the present scenario of huge pendency, the Advocates should avoid unnecessary litigation and, therefore, we proceed to pass the following order :-

ORDER

- I) Criminal Writ Petition stands rejected.
- II) The petitioners to deposit cost of Rs.20,000/- with the High Court Legal Services, Sub Committee, Aurangabad within a period

of one month from today.

III) In case of failure on the part of the petitioners to pay the cost as aforesaid would lead to recovery of the same as arrears of land revenue.

IV) Place the matter for further compliance on 24.09.2025.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm