

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

933 CIVIL APPLICATION NO. 11223 OF 2014
IN FA/1119/2013 WITH CA/13181/2016 IN FA/1119/2013

DAYARAM JAIRAM PATIL DIED LRS BHASKAR DAYARAM PATIL DIED
THR LRS LATABAI AND ORS
VERSUS
MIDC THR DIVNL OFFICER MIDC SATPUR NASHIK AND OTHERS

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Advocates for Applicants in CA No. 11223/14 : B R Warma,
Advocate for applicants in CA No. 13181/16 : D.A. Naik
Advocate for Respondent 1 : S.S. Dande
Advocate for Respondents 2 to 7 : R.C. Patil, M.M. Bhokarikar
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CORAM : T.V. NALAWADE, J.
DATED : 10th January, 2017.

ORDER :

1. In Civil Application No. 11223/2014, heard the learned counsel for applicants today. Learned counsel Shri. Bhokrikar submitted that he wants to take steps to challenge the decree of partition obtained against Bhaskar and his brothers by filing appropriate proceeding before appropriate forum. Time is given till 3.2.2017. On or before 3.2.2017 if no order of Civil Court is obtained, further orders will be made in this proceeding.
2. Authenticated copy is allowed to both the sides.
3. Civil Application No. 13181/2016 is filed by issues of Bhaskar. Though Bhaskar is alive the decree of partition is given

against Bhaskar, his brothers and sisters. These applicants, who are issues of Bhaskar, are not made party even to the partition suit. In view of these circumstances, the application needs to be allowed.

4. The learned counsel for review applicant Shri. Warma placed reliance on the observations made by this Court in the case reported as **1999 (3) ALL MR 426 [Raghunath s/o. Dhondu Navde Vs. Pandit s/o. Ramchandra Navde & Ors.]**. There is apparently case of fraud played by the present applicants and opportunity needs to be given to the person who has right to get share in the property. So, the application is allowed. These observations are only for Civil Application No. 13181/2016.

[T.V. NALAWADE, J.]

ssc/