

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

2 WRIT PETITION NO. 5581 OF 2014

LAXMAN TUKARAM RAJBHOI

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Gulab B. Rajale, Advocate for the Petitioner.

Mr. S. K. Tambe, AGP for Respondent-State.

...

**CORAM : S. V. GANGAPURWALA &
S. M. GAVHANE, JJ.**

DATED : 20th AUGUST, 2018.

PER COURT:-

1. Mr. Rajale, learned counsel for the petitioner submits that the Trial Court passed the decree in the year 1982, which was subject to the Appeal and Second Appeal. The Second Appeal was eventually dismissed in the year 2003. The petitioner is the original defendant no.6. He had filed execution, the same is referred to Revenue Authorities under Section 54 of the Code of Civil Procedure. The decree is not yet being executed. The learned counsel submits that time and again representations are made by the petitioner but to no avail, the vacant lands are not provided.

2. The learned A.G.P. submits that the Tahsildar has filed an affidavit. He has clarified the position that the measurement was conducted and

the portion to be allotted to the petitioner is also carved out.

3. We have considered the submissions canvassed by the learned counsel for the respective parties.

4. The decree is referred under Section 54 of Code of Civil Procedure to the Revenue Authorities. It is for the Revenue Authorities to effectuate the decree and carve out the shares being an agricultural land and as per assessment of the land revenue.

5. It is submitted that the petitioner has been allotted final plot nos.115, 116 and 112. However, the petitioner objected the said partition by submitting his objection and the petitioner is insisting for allotting final plot no.126, which according to the Tahsildar is not possible to be given because of the various transactions and constructions.

6. If the petitioner is aggrieved by the measurement conducted and the shares shown, the petitioner has got remedy of Appeal under the Maharashtra Land Revenue Code.

7. It is a fact that, the parties are litigating since long time and the Authorities are expected to proceed with the decree expeditiously in consonance with the judgment delivered by the

Appellate Court, which is confirmed in the Second Appeal. The observations and directions given by the Appellate Court while passing the judgment certainly will have to be considered by the Authorities.

8. It would not be possible for this Court to pass orders one way or the other, considering the fact that, in the Appeal before the District Court there were large number of respondents that is more than 43. They are not before this Court.

9. If the petitioner has any grievance with regard to the measurement conducted and the partition shown, the petitioner may take appropriate steps before the Authorities, as contemplated and provided under the provisions of Maharashtra Land Revenue Code. If any such grievance is raised, the same shall be decided by the Authorities on its own merits after hearing all the parties concerned expeditiously.

10. Writ Petition is disposed of. No costs.

(S. M. GAVHANE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE