

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

WRIT PETITION NO.10180 OF 2019

**RAMESH SHENFADU PATIL
VERSUS
SUPADU SHENFADU PATIL THROUGH LRS GANGUBAI SUPADU PATIL
AND OTHERS**

...
Advocate for the Petitioner : Shri Shinde Digambar B.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 06th September, 2019

Per Court:

1 The petitioner/ Judgment Debtor No.1 in Regular Darkhast No.9/1998 seeks to challenge the order dated 11.03.2019 by which, the Executing Court has allowed the application exhibit 130 filed by the Decree Holder and has directed the Tahasildar to keep the Petitioner and Ravindra Zanke in one share while making partition.

2 The learned advocate for the petitioner has relied upon the seven grounds formulated in the memo of the petition. It is contended that the impugned order is passed without taking assistance of the Collector or any person deputed by him. It is contrary to the documents available before the court. There are no directions as regards specifying the boundaries and specific shares allotted to the Decree Holder and

Judgment Debtors. Mr.Zanke is not a party to the execution proceedings and he could not be placed along with the petitioner in a particular share.

3 It appears from the record that RCS No.12/1992 filed by the deceased real brother of the petitioner was decreed on 31.08.1998. The petitioner was awarded 1/3rd share in the suit property. The record further reveals that the petitioner sold 81 R to Mr.Vilas More though he had received only 63 R as his 1/3rd share. Mr.Vilas More then sold it to Mr.Mahendralal Agrawal and Mr.Agrawal then sold it to Mr.Ravindra Zanke. It is admitted that Mr.Zanke has taken possession of 81 R land in Gat No.178.

4 It is thus, obvious that this petitioner has sold not only his share of 63 R, but 18 R more than his share. Therefore, while carrying out partition, the Executing Court has directed the Tahasildar to place Mr.Zanke along with this petitioner with regard to his 1/3rd share of 63 R together so as to properly and effectively partition the land by removing obstruction.

5 I find that the impugned order cannot be termed as being perverse or erroneous or likely to cause gross injustice to the petitioner. This writ petition being devoid of merit is, therefore, dismissed.