

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9185 OF 2018

SMT.MAHANANDA MAHADEO MALI & ORS.)...PETITIONERS

V/s.

BASGONDA SIDDHANINGA TIKOTE & ORS.)...RESPONDENTS

Shri. Umesh Mankapure, Advocate for the Petitioner.

Shri.Balwant Salunkhe, Advocate for Respondent Nos.1 & 3.

CORAM : A. M. BADAR, J.

DATE : 11th NOVEMBER 2019

P.C. :

1 Heard finally.

2 Order dated 6th June 2018 passed by the Executing Court is challenged in the instant petition.

3 Paragraph 6 of the impugned order is relevant. It reads thus :

“6 It is pertinent to note here that final decree application is filed for partition of properties

through District Collector under section 54 of Civil Procedure Code. J.D.No.16 is purchaser. He is not co-sharer in the suit properties. Whereas, proposed third parties are not co-sharers in the suit properties. A transferee pendente lite can exercise all the rights of the transferee and can ask for an equitable partition by participating in proceeding in execution proceeding before Collector. J.D.No.16 and proposed third parties are purchaser of J.D.No.1. They are not purchaser of plaintiff. Partition decree had been passed and plaintiffs share in suit properties was already declared. Now this court cannot go behind the decree. Hence, I proceed to pass following order :

ORDER

Application is rejected.”

4 The petitioner can very well approach the Collector before whom the proceedings are pending and he can get the relief as stated in paragraph 6, by the learned trial court.

5 In this view of the matter, the petition stands disposed off.

(A. M. BADAR, J.)