

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

WRIT PETITION NO. 7327 OF 2019

Bhaguji s/o Shankar Kale,
Age 71 years, Occ. Agriculture,
R/o. Kale Vasti, Salvandevi Road,
Tq. Shrigonda, Dist. Ahmednagar.

... Petitioner.

VERSUS.

- 1) Zumbar Shankar Kale,
Age 64 years, Occ. Agriculture.
- 2) Janardhan Shankar Kale,
Age 62 years, Occ. Agriculture.
- 3) Machindra Shankar Kale,
Age 42 years, Occ. Agriculture.
- 4) Tarabai Zumbar Kale,
Age 57 years, Occ. Agriculture.
- 5) Latabai Machindra Kale,
Age 52 years, Occ. Agriculture.
- 6) Rakhmabai Bapu Kale,
Age 62 years, Occ. Agriculture.
- 7) Shubham Bapu Kale,
Age 16 years, Occ. Nil.
Through his Natural Guardian
Mother Respondent No. 6
Rakhamabai Bapu Kale.
Nos. 1 to 7 R/o. Kale Vasti, Salvandevi Road
Shrigonda, Tq. Shrigonda, Dist. Ahmednagar.
- 8) Ashabai Shivaji Borude,
Age 47 years, Occ. Agriculture,
R/o. Katrabaj Mandavgan
Tq. Shrigonda, Dist. Ahmednagar.
- 9) Chaya Ganesh Zagade,
Age 30 years, Occ. Agriculture,
R/o. Dhanore, Tq. Shirur Dist. Pune.

10) Manisha Bapu Kale,
Age 22 years, Occ. Nil.,
R/o. Kale Vasti, Salvandevi Road
Shrigonda, Tq. Shrigonda, Dist.
Ahmednagar.

11) Hausabai Hari Kothambire,
Age 76 years, Occ. Household,
R/o. Kale Vasti, Salvandevi Road
Shrigonda, Tq. Shrigonda, Dist.
Ahmednagar.

12) Kausabai Hari Kothambire,
Age 63 years, Occ. Household,
R/o. Kale Vasti, Salvandevi Road
Shrigonda, Tq. Shrigonda, Dist.
Ahmednagar.

... Respondents.

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Advocate for the Petitioner : Mr. Rode Dilip B.
Advocate for the Respondent Nos. 1, 3 to 6 and 8 to 10 : Mrs. Anjali
Dube (Bajpai).

CORAM : MANGESH S. PATIL, J.
DATE : 24.11.2021.

ORAL JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. With the consent of the parties the matter is heard finally at the stage of admission.

2. The original plaintiff is aggrieved by the consistent findings of the two Courts below refusing temporary injunction to him.

3. Having heard both the sides and after perusal of the orders passed by two Courts below it transpires that though the petitioner was a party to two compromise decrees which were passed excluding the two properties namely Block No. 1726 and 1741, he is now seeking to lay a claim on these two lands.

4. As can be appreciated, the main prayer in the plaint in Clause No. 'C' seeking to enforce the terms of the compromise would not be maintainable.
5. Apart from the above state of affairs, when the petitioner himself was a party to the two compromise decrees passed in Regular Civil Suit No. 135/1993 and Regular Civil Suit No. 122/2005, the latter of which was filed by non other than his own daughter, the whole attempt apparently seems to be to take some exception to these Compromise decrees.
6. *Prima facie* it appears that he had the opportunity to put up his case in the previous litigation pointing out that the properties that were purchased in the name of the original defendant Nos. 3 and 4 were not purchased by them for and on behalf of the joint family. He did not make any attempt to raise such plea and allowed the compromise decrees to be passed.
7. He may now raise a dispute even by resorting to the plea of fraud, the aforementioned facts and circumstances clearly demonstrate that the view taken by the two Courts below by no stretch of imagination can be said to be either perverse, arbitrary or capricious so that this Court can intervene in exercise of the writ jurisdiction .
8. The Writ Petition is dismissed.
9. The Rule is discharged.
10. The observation made herein above are confined to the decision of the Writ Petition.

(MANGESH S. PATIL, J.)

mkd/-