

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3357/2021

Bhaurao Kisanji Awachat..Versus... Pramod Bhaurao Awachat and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. S.G.Malode, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 06/12/2021

Heard Mr. Malode, learned counsel for the petitioner, who challenges the order dated 10.12.19 passed by the trial Court below Exhs. 38 & 49.

Mr. Malode, learned counsel for the petitioner admits that the petitioner has no legal right in the property in question as he has already divested himself of the right therein by executing and registering the sale deed on 21.5.1993, of the said property in favour of his four sons, one of whom is the judgment debtor No.2 . Since the judgment debtor No.2 has not been given an equal share in the decree for partition passed in RCS No.165/2013, the father/petitioner has filed the said application, which has been incorrectly rejected.

The very statement, that the petitioner has divested himself of all rights in the suit property, by execution and registration of sale deed dated 21.5.1993 would indicate that the petitioner has no right whatsoever remaining in the suit property and therefore, no locus also to raise any grievance regarding the decree for partition

and its execution as passed in RCS 165/13. The impugned order indicates that the petitioner has not filed those application on his behalf, but on behalf of the Judgment Debtor Nos. 1 and 2, who are very much alive. In case the judgment debtor Nos. 1 and 2 are aggrieved by the distribution of the property in the execution proceedings filed for execution of the decree, it is they who would have a right to object and not the petitioner who has no right whatsoever remaining in the suit property by virtue of the sale deed dated 21.5.1993. That being the position, I do not see any infirmity in the impugned order. The petition is accordingly dismissed.

JUDGE

rvjalit