

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

33 WRIT PETITION NO.2451 OF 2021

VISHWNATHAPPA GURUBASAPPA CHAWANDA &
OTHERS
VERSUS

THE STATE OF MAHARASHTRA & OTHERS

...

Advocate for the petitioners : Mr.B.A.Darak
AGP for Respondent-State : Mr.S.G.Sangle
Advocate for Respondent nos.4 to 7 : Mr.R.R.Deshmukh
Advocate for respondent no.9 : Mr.C.D.Biradar

...

**CORAM : RAVINDRA V. GHUGE &
S.G.DIGE, JJ.**

DATE : 18.04.2022

P.C. :

1. On 7th March, 2022, this Court had passed the following order :-

1. The learned counsel for respondent Nos. 8 and 9 tenders a copy of the order dated 2nd February, 2022 in appeal filed by it's client before the Additional Commissioner, Aurangabad in which the petitioner's are impleaded as respondent Nos. 7A to 7E. Those proceedings are adjourned to 29th of March, 2022. The learned counsel for the petitioners herein agrees to appear before the Additional Commissioner in the

said proceedings without prejudice to the rights and contentions raised in this petition.

2. Hearing proposed in that proceeding on 29th March 2022 is pre-poned to 15th March 2022. The parties shall appear before the Additional Commissioner on the revised date i.e. 15th March 2022 at 11.00 a.m. The petitioners are allowed to appear before the learned Additional Commissioner without prejudice to the rights and contentions raised in this petition. The learned Additional Commissioner shall make every endeavour to dispose of the appeal on or before 8th April, 2022. The parties shall not seek any unnecessary adjournments before the Additional Commissioner. Place the matter on board for admission on 18th April 2022.

3. The respondents are allowed to file affidavit in reply within two weeks from today if not filed. It is made clear that no further adjournment will be granted. If any order is passed by the Additional Commissioner on or before the next date, the same shall be produced on record of this petition by the parties.

2. There is no dispute that respondent nos. 4 to 9 have purchased the share of one Premabai and as such their

rights flow from the share of Premabai. The petitioners' shares are admittedly distinct and different from the shares of Premabai. The grievance of the petitioners is that though Regular Civil Suit No. 45/1969 seeking partition and separate possession has been decreed by the judgment dated 01.08.1972, which has attained finality and the Executing Court referred the matter as regards the suit land and house property under Section 54 of the Code of Civil Procedure in R.D.No. 56/1980 to the District Collector, Latur, these petitioners are yet to receive the fruits of the decree.

3. Since the parties would now be relegated to the jurisdiction of the learned Single Judge as respondent nos. 8 and 9 have already filed a Writ Petition bearing Stamp No.11389 of 2022 challenging the order of the Additional Divisional Commissioner dated 5th April, 2022, this petition need not be kept pending.

4. As such, the Writ Petition is disposed off.

5. Needless to state, the contentions of the litigating parties to the extent of their shares are kept open.

[S.G.DIGE, J.]

[RAVINDRA V. GHUGE, J.]

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