

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4489 OF 2021

Mehiboob Ambir Korbu
Deceased Through LRs. ... **Petitioner**
Versus
Rubababi Mard Abdul
Reheman Sheikh & Ors. ... **Respondents**

Mr. Ashok B. Tajane, Advocate for the Petitioner.

Mr. P. S. Dani, Senior Counsel a/w. Mr. Shankar Kakkar i/b.
Ms. Manisha Devkar, Advocate for the Respondent No.1.

Mr. Sarang Aradhye, Advocate for the Respondent Nos. 30
to 32 and 35 to 38.

**CORAM: S.V. GANGAPURWALA &
 M. G. SEWLIKAR, JJ.**

DATED : APRIL 26, 2022

P.C.

1. The petitioner has filed the present writ petition claiming that the RTS Darkhast is time barred. Another prayer is made to decide the application of petitioner dated 3rd March 2021.

2. The decree of partition and separate possession is of course a preliminary decree. The application is to be filed for drawing final decree after the preliminary decree. In respect of agricultural land, the precept under Section 54 of the Code of Civil Procedure shall be sent to the Collector and the same has to be dealt with as per the provisions under

the Maharashtra Land Revenue Code, 1966. The suit for partition and separate possession is never disposed of till the decree becomes final.

3. Moreover, the petitioner has already filed an application before the Collector on 03/03/2021. Naturally, once application has been filed, the same has to be taken up and decided by the Collector in accordance with law after hearing all the parties concerned. The parties concerned may file their say and raise objections to the application of the petitioner dated 03/03/2021 as may be permissible under law.

4. With the aforesaid observations, the writ petition stands disposed of. No costs.

(M. G. SEWLIKAR, J.)

(S.V. GANGAPURWALA, J.)

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