

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

41 WRIT PETITION NO.4148 OF 2023

**SADASHIV BARKU KSHIRSAGAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH THE COLLECTOR AND OTHERS**

...

Advocate for Petitioners : Mr. V.H. Pathade
AGP for Respondent – State : Mr. A.R. Kale

...

**CORAM : NITIN W. SAMBRE AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 17-04-2023

PER COURT :

. After the decree for partition in Regular Civil Suit No.127 of 1992 decided on 14th July, 2006 confirmed upto this Court in Second Appeal was executed, the petitioner - a subsequent purchaser of part of the suit property from some of the judgment debtors in 2009, has lodged objection under Section 85 of the Maharashtra Land Revenue Code, 1966 (hereinafter, in short, 'MLR Code').

2. The case of petitioners is, the Collector be directed to decide the objection pursuant to the provisions of Section 85 of the MLR Code.

3. The fact remains that the suit for partition being Regular

Civil Suit No.127 of 1992 was decreed on 14th July, 2006 by the Court of 2nd Jt. Civil Judge Senior Division, Beed. Subsequent to the aforesaid decree, petitioners appear to have purchased the suit property in the year 2009.

4. The aforesaid decree was confirmed by the First Appellate Court in Regular Civil Appeal No.36 of 2009 vide judgment and decree dated 07th October, 2017 and Second Appeal preferred by the present petitioners i.e. petitioner nos.4 and 5 was dismissed on 30th March, 2021.

5. Once the Second Appeal is dismissed and the execution proceedings have concluded, it has to be inferred that petitioners lack an independent right to purchase the suit property after the suit was decreed against the predecessor in title of petitioners.

6. In that view of the matter, petitioners lack locus to seek relief of issuance of directions to the Collector to decide their objection pursuant to the provisions of Section 85 of the MLR Code.

7. The petition being *sans* merit stands dismissed.

(S.G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE , J.)