

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

WRIT PETITION NO.4846 OF 2023

**SANTOSH BAPURAO WAGHMARE
VERSUS
PADAMAVATI W/O BAJIRAO KHARAT AND OTHERS**

...
Mr. Amol Gandhi, Advocate for Petitioner
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 25TH APRIL, 2023

PER COURT :

1. Petitioner is aggrieved by the order dated 22/02/2023, passed by learned Civil Judge, Junior Division, Jalna, below Exhibit-93 in Regular Darkhast No.67/2012, thereby rejecting objection of limitation raised by the petitioner.

2. Decree in R.C.S. No.1/70 for partition and separate possession was passed on 26/08/1986. First appeal filed before the District Court, Jalna, was partly allowed on 24/02/1992 and the decree holder was allotted 1/3rd share in the suit property. Second Appeal No.164/1994 was rejected on 22/04/1992 and the regular darkhast was thereafter filed for execution of partition decree.

3. Petitioner raised objection stating that execution proceeding ought to have been filed within 12 years from 22/04/1992. Since it is filed after 12 years, as per Article 136 of the

Limitation Act, the proceeding is time barred. This objection of the petitioner is rejected by the executing Court by imposing cost of Rs.2,000/-. Hence, the present petition.

4. Heard learned advocate for petitioner. Perused the writ petition memo, annexures thereto and the impugned order.

5. It is held in *Bikoba Deora Gaikwad and Others Vs. Hirabai Marutirao Ghorgare and Others*, 2008 AIR(SCW) 4264, and *Ramkrishna Narayan Khedkar Vs. Shrikrishna Nagorao Zade*, 2014(1) Mh.L.J. 420, that there is no limitation for execution of partition decree. The executing Court has rejected application by considering the said legal position.

6. Order passed by the executing Court is a well reasoned order and no fault can be found with the same. Writ petition being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)