

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

1014 WRIT PETITION NO.9589 OF 2019

WITH

WRIT PETITION NO.11670 OF 2022

...

SADASHIV SOPAN MATE

VERSUS

THE DISTRICT MAGISTRATE OSMANABAD & OTHERS

...

Advocate for Applicant : Adv. Ashwini A. Limte h/f.

Mr.S.J.Salunke

AGP for Respondent-State : Mr.N.T.Bhagat

Advocate for Respondent no.3 : Mr.D.A.Madake

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 20.10.2023

P.C. :

1] Respondent no.3 in Writ Petition No.9589 of 2019 has filed affidavit along with notarized document wherein it is stated that respondent no.4 as well as petitioner was given ½ share in the property bearing Gat No.128 admeasuring 1 H. 82 R. situated at village Dahiphal, Taluka Kallam, District Osmanabad. Both sons are given 1 ½ share each equally.

2] The learned counsel for the petitioner in Writ Petition No.9589 of 2019 submits that civil suit is also filed for partition of the property and he has claimed share in the property.

3] However, the affidavit is filed by the father, respondent no.3 in Writ Petition No.9589 of 2019 and submits that in the civil suit also, he will concede the claim of the petitioner to the extent of 1 Hectar 82 R. in Gat No.128 as stipulated in the notarized document. However, he would continue to remain the owner of the land to the extent of 1 Hectar 82 R. till his demise.

4] The petitioner in Writ Petition No.9589 of 2019 would be at liberty to take possession of 1 H. 82 R. and cultivate the same. The petitioner is permitted to cultivate $\frac{1}{2}$ portion of the land as described in the partition deed.

5] The learned advocate for the respondent no.3 in Writ Petition No.9589 of 2019 has stated that apart from this land, the petitioner is also given 1 $\frac{1}{2}$ land.

6] The petitioner in Writ Petition No.9589 of 2019 is permitted to cultivate the same. The Civil Suit to proceed further on its own merits. On the permission of cultivation, the petitioner in Writ Petition No.9589 of 2019 being also permitted to take crop loan. In the event, the petitioner in Writ Petition No.9589 of 2019 takes crop loan, the petitioner would repay the same and he would pay all outstanding dues towards crop loan.

7] With the above consensus between the parties, the present Writ Petitions are disposed of with direction to pay the amount as directed by the authorities of Rs.1500/- per month to the respondent no.3. The petitioner in Writ Petition No.9589 of 2019 will pay Rs.1500/- per month towards maintenance to the respondent no.3 on month to month basis. Pending Civil Application, if any, is also disposed of.

8] The parties have agreed that the entire amount deposited be permitted to withdraw by the respondent no.3

in Writ Petition No.9589 of 2019. Hereinafter from the month of October, 2023, the petitioner in Writ Petition No.9589 of 2019 will be liable to pay Rs.1800/- per month towards maintenance to the respondent no.3 on month to month basis.

9] Calculations to be submitted in the matter. List this matter on 8th December, 2023.

[ARUN R. PEDNEKER]
JUDGE

DDC