

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1852 OF 2023

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Parameshwar Laxman Rathod & Ors. ... Petitioners

V/s.

Prakash Dnyanoba Gholve & Ors. ... Respondents

Ms. Gunjan Shah for the petitioners.

Mr. Sujeet Bugade for respondent Nos.2, 3, 9 & 10.

Mr. Prasad P. Kulkarni for respondent Nos.6 & 8.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 11, 2023

P.C.:

1. The petitioners by this petition are seeking a direction against the executing Court to decide an application filed under Order 21 Rule 97 of the Civil Procedure Code, 1908, to enforce their rights in relation to agricultural lands.

2. It is undisputed that the Trial Court passed a preliminary decree both of partition in respect of house properties and agricultural properties. The petitioners claim rights over the agricultural properties based on a sale deed executed during pendency of appeal. The rights claimed by the petitioners are through judgment debtor.

3. The petitioners are seeking enforcement of rights in relation

to agricultural lands before the executing Court. It is well settled that in relation to agricultural lands executing Court has no powers to adjudicate rights between the parties save and except sending papers under section 54 of the Civil Procedure Code, 1908. The final decree and execution is done by the revenue authorities.

4. Therefore, apart from the fact that the petitioners are claiming through judgment debtor during pendency of appeal, executing Court has no powers to decide objections in relation to agricultural lands. Therefore, writ petition cannot be entertained.

5. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)