

SA Pathan

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

WRIT PETITION NO.5188 OF 2011

Govind Gyanaba Maratkar (Deceased)

Through Legal Heirs

... Petitioners

V/s.

Kashinath Gyanba Maratkar & Ors.

... Respondents

SHABNOOR
AYUB
PATHAN
Capacity signed by
SHABNOOR AYUB
PATHAN
Date: 2023.10.23
09:54:08 +0530

None for the petitioner.

Mr. Shailendra S. Kanetkar, for respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 23, 2023

P.C.:

1. Challenge in this writ petition is to the order dated 18 April 2011 passed by the Civil Judge, Senior Division, Pune below Exhibit 166 in Special Darkhast No.303 of 1992.
2. By the said application, the decree holder requested for selling the properties in an auction under Section 2 of Partition Act, 1893 by considering valuation given by the Court Commissioner.
3. The Executing Court recorded a finding that property is not partible; hence, directed issuance of proclamation under Order 21, Rule 66 of the Code of Civil Procedure, 1908.
4. Petitioners/judgment debtors have, therefore challenged the

petition by way of present writ petition.

5. This Court by order dated 26 February 2015, directed for appointment of registered valuer to undertake the valuation of the suit properties.

6. Considering the reasons stated in the order dated 26 February 2015 passed by this Court, it would be in the interest of justice that the arrangement as directed by this Court by the said order be continued and the Executing Court after complying with direction Nos.1 to 4, shall proceed to execute the decree.

7. Since, the petition is being disposed of, it is not necessary to submit a report of registered valuer. The Executing Court shall consider the report and pass appropriate order for execution of decree.

8. Nothing remains to be adjudicated in writ petition; hence, the writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)