



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**WRIT PETITION NO.7628 OF 2023**

[Mohd. Wajid S/o. Ab. Kayyum and Ors. .Vs. Meherunnisa Wd/o  
Mohd. Salim]

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*Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
order  
and Registrar's orders.*

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*Court's or Judge's*

Mr R. S. Kalangiware, Advocate for Petitioners.

**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 7<sup>th</sup> DECEMBER, 2023.**

1. Heard Mr Kalangiware, learned counsel for the petitioners.

2. The petition is by the defendants in R.C.S. No.268 of 2022 challenging the order below Exhibit-5, whereby the petitioners/defendants have been restrained from alienating or creating third party interest in the suit property till the final decision of the suit by the order dated 25.07.2023 (page 155) and the judgment in Misc. Civil Appeal No.41 of 2023 dated 12.09.2023 by which the appeal has been dismissed (page 174).

3. It is not disputed that the respondent plaintiff has a share in the immovable property. It is, however, contended that since there was an oral partition, the property has been divided and is separate. However, a perusal of the assessment sheet at page 69, does not indicate that the same has been done on the basis of an oral partition as is now subsequently pleaded. Both the

Courts below, have relied upon the assessment sheet of the Municipal Council, which records the property jointly in the name of the plaintiff and defendants. The relationship is also not disputed. In view of which, I do not see any ground made out to interfere in the concurrent finding of facts rendered by the Courts below. The petition is, therefore, **dismissed**. No costs.

JUDGE