



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

WRIT PETITION NO. 12574 OF 2024

KISAN TUKARAM GALANDE DIED THROUGH LRS TUKARAM KISAN
GALANDE

VERSUS

BABANRAO GANPAT CHAUDHARI DECEASED THR LRS MIRABAI BABAN
CHAUDHARI

Mr. N. V. Gaware and Mr. S. N. Gaikwad, Advocate for petitioner
Mr. C. K. Shinde and Mr. T. C. Shinde, Advocate for respondent Nos.
1(A), 1(B), 1(C), 1(D).

CORAM : R. M. JOSHI, J.

DATE : 06th December , 2024

PER COURT :-

1. Learned counsel for both sides were heard for substantial time.
2. During the course of the hearing, this Court found that the basic objection of the petitioners for the impugned order passed below Exhibit 67 is that he would be denied of an opportunity to object/give his say on the report submitted by the surveyor while fixing boundaries of the suit property, pursuant to impugned order. It is his submission that once such direction is issued by the Execution Court to the Deputy Superintendent of Land Record for fixing boundaries of the suit property, it is the within the right of the petitioner/Judgment debtor to take objection in that regard and denial of such opportunity amounts to

violation of principles of natural justice.

3. This court finds substance in the contention of learned counsel for the petitioner that there cannot be denial of an opportunity to meet report of surveyor. If such opportunity is to be given, the order of issuance of warrant of possession and order providing police protection for that purpose deserves to be kept in abeyance. Learned counsel for respondents, on instructions, records no objection for this arrangement with a rider that even for the purpose of survey, police protection be granted.

4. Learned counsel for the petitioners, on instructions, of the petitioners who are present in the Court, makes statement that applications Exhibits 71 and 80 filed before the Execution Court in Regular Darkhast No. 28/1991 are not pressed. This statement is accepted in view thereof, these applications stand disposed of.

5. In view of the above, petition stands disposed of in following terms :

- i. Clause No. 2 and Clause No.4 of the impugned order passed below Exhibit 67 are kept in abeyance till the petitioners/judgment debtor is provided an opportunity to raise objection with regard to the report of Deputy Superintendent of Land Record for fixing boundaries of

the suit property and such objection is dealt with.

- ii. The clause No.3 of the order be implemented with a rider that for the purpose of the measurement, the police protection is provided at the cost of respondent/decreed holder.

(R. M. JOSHI, J.)

bsj