

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5263 OF 2017**

Shivappa Shankar Gidd and Ors ... Petitioners

vs.

Rukhmini Balkrishna Khebude and Ors ... Respondents

Mr. Prasad B. Kulkarni, for petitioners.

Mrs. Madhubala Kajle, 'B' Panel Counsel for respondent nos. 3 to 7-
State.

CORAM : GAURI GODSE, J.

DATED : 15th JANUARY, 2024

P.C. :-

1. This petition is filed by the original defendants challenging the orders passed in the proceedings under section 85 of the Maharashtra Land Revenue Code, 1966 for execution of the partition decree dated 30th March 2011.

2. Learned counsel for the petitioners submitted that pursuant to the division chart, originally prepared by the Tahasildar, instead of allotting Gat No. 1062 to the original plaintiffs, Gat No. 1046 should have been allotted to the original plaintiffs. He submitted that Gat No. 1062 is divided between the original plaintiff nos. 1 and 2 and

defendant no.1. He thus, submitted that instead of dividing Gat no. 1062 only Gat No. 1046 should have been allotted to original plaintiff nos. 1 and 2.

3. Perusal of the impugned orders does not indicate that this objection was any time raised on behalf of the petitioners when the division chart that was prepared and approved by an order dated 30th March 2011. The said order was challenged before the Sub Divisional Officer who confirmed the same by order dated 3rd February 2012.

4. The aforesaid orders are also approved by the Additional Collector on 29th October 2012, before whom the petitioners had filed appeal and subsequently also approved by the Additional Commissioner on 20th May 2015 and then by the State Government on 9th November 2016 in the Second Revision that was filed.

5. The partition decree of the Civil Court passed on 30th March 2011 was not challenged by the petitioners, and the same has attained finality. The grounds of challenge raised with respect to the division of the property were considered by the authorities and have been approved concurrently by all the authorities. Objections raised by the petitioners cannot for the first time be considered in the

petition.

6. I do not find any illegality or infirmity in the order passed by all the authorities. The petition is devoid of merits.

7. The petition is dismissed.

(GAURI GODSE, J.)