

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7720 OF 2019

Dadarao Krishna Sarvade
(since deceased) through his heirs and legal
representatives 1. Chandrakant Dadarao Sarvade
and Ors. .. Petitioners

Versus

Parvatibai Dadarao Sarvade and Anr. .. Respondents

WITH
INTERIM APPLICATION NO.3795 OF 2020
IN
WRIT PETITION NO.7720 OF 2019

Sandip Bhagvat Sankpal and Ors. .. Applicants

IN THE MATTER BETWEEN:

Dadarao Krishna Sarvade
(since deceased) through his heirs and legal
representatives 1. Chandrakant Dadarao Sarvade
and Ors. .. Petitioners

Versus

Parvatibai Dadarao Sarvade and Anr. .. Respondents

WITH
INTERIM APPLICATION NO.3473 OF 2021
IN
WRIT PETITION NO.7720 OF 2019

Dadarao Krishna Sarvade
(since deceased) through his heirs and legal
representatives 1. Chandrakant Dadarao Sarvade
and Ors. .. Applicants

IN THE MATTER BETWEEN:

Dadarao Krishna Sarvade
(since deceased) through his heirs and legal
representatives 1. Chandrakant Dadarao Sarvade
and Ors. .. Petitioners

Versus

Parvatibai Dadarao Sarvade and Anr. .. Respondents

WITH
INTERIM APPLICATION NO.1595 OF 2021
IN
WRIT PETITION NO.7720 OF 2019

Dadarao Krishna Sarvade
(since deceased) through his heirs and legal
representatives 1. Chandrakant Dadarao Sarvade
and Ors. .. Applicants

IN THE MATTER BETWEEN:

Dadarao Krishna Sarvade
(since deceased) through his heirs and legal
representatives 1. Chandrakant Dadarao Sarvade
and Ors. .. Petitioners

Versus

Parvatibai Dadarao Sarvade and Anr. .. Respondents

-
- Mr. R. A. Thorat a/w. Athrav Narawade i./by Ramdas Hake Patil,
Advocates for Petitioners.
 - Mr. S. P. Chaudhari i./by Maharashtra Law Associates, Advocate for
Respondent Nos.2 and 3.
-

CORAM : MILIND N. JADHAV, J.

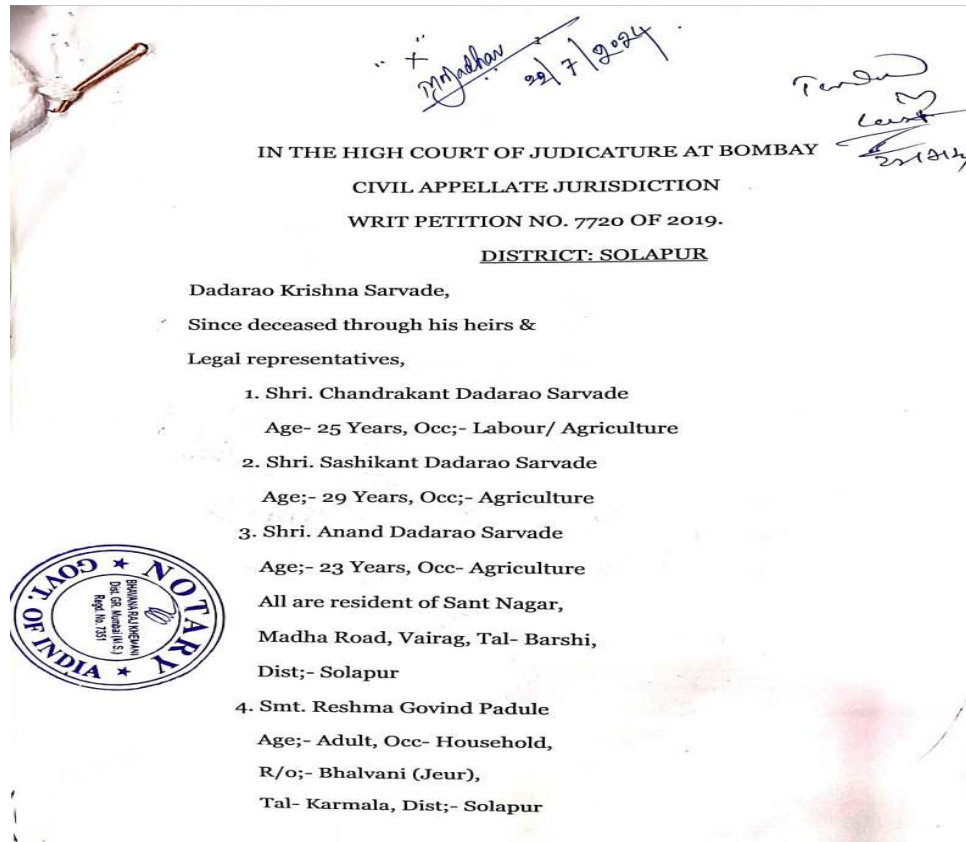
DATE : JULY 22, 2024

P.C.:

1. Heard Mr. Thorat, learned Advocate for Petitioners and Mr.
Chaudhari, learned Advocate for Respondent Nos.2 and 3.

2. Parties have reconciled their disputes and filed Consent
Terms dated 22.07.2024. The Consent Terms are taken on record and
marked 'X' for identification. They are executed by Petitioner No.1 –
Chandrakant Dadarao Sarvade; Petitioner No.2 – Shashikant Dadarao
Sarvade; Petitioner No.3 - Mr. Anand Dadarao Sarvade; Petitioner
No.4 – Reshma Govind Padule; Petitioner No.5 – Sushma Kailas
Aaldar; Respondent No.1 – Parvatibai Dadarao Sarvade and

Respondent No.2 – Vijaya Dadarao Sarvade @ Smt. Vijaya Santosh Waykule; Advocate for Petitioners – Ramdas Hake Patil and Advocate for Respondent No.1 and 2 – S. P. Chaudhari. Parties who have executed Consent Terms are all present before me and made their journey all the way from Solapur for this reason. They have confirmed execution of Consent Terms through their signatures. Their identification is also been checked by Court Sheristedar. They are running into 10 pages until execution clause and thereafter 35 pages in total. For the sake of reference and convenience the first 10 pages upto execution clause of the same are scanned and reproduced below except the Annexure thereto:-



5. Smt. Sushma Kailas Aaldar

Age- 27 years, Occ-Household,

R/o;-Badlewadi(Nimgaon) ,

Tal;- Madha, Dist;- Solapur Petitioners

-: VERSUS :-

1. Sou. Parvatibai Dadarao Sarvade,

Aged about 76 years,

Occupation; Nil, R/o. Bangale Galli,

Vairag, Tal. Barshi, District: Solapur.

2. Vijaya Dadarao Sarvade, @

Smt.Vijaya Santosh Waykule

Aged about 40 years,

Occupation: Household,

R/o;- Irle Tal;- Barshi, Dist; Solapur Respondents



CONSENT TERMS

1. That the Petitioners are the legal heirs of Dadarao Krishna Sarvade expired on 15.06.2019 who had filed the present Writ Petition challenging the legality, validity and propriety of the impugned orders passed below Exh-168 dated 18.04.2018, order below Exh-177 dated 22.10.2018 and order below Exh-185 dated 02.03.2019 in Regular Darkhast No. 73 of 1993 passed by the Ld. Civil

Judge, Junior Division, Barshi, District: Solapur, whereby the Executing Court was pleased to issue possession warrant which were not part of the Sale Certificate and directing the Superintendent of Land Records, Barshi, to attach the properties as prayed in the application and the legal heirs are brought on record of the petition after the demise of Dadarao Krishna Sarvade.

2. The Petitioners state and submit that the late Dadarao Krishna Sarvade was the Defendant No.1 in R.C.S. No. 304 of 1985 filed by the Plaintiffs i.e Respondent Nos.1 and 2 for seeking maintenance of Rs.250/- p.m. each. After hearing the parties and going through the record and evidence the Ld. Civil Judge, Junior Division, Barshi was pleased to allow the suit thereby directing to pay the amount of Rs. 500/- to the Plaintiffs as maintenance of Rs.250/- each for Plaintiff Nos.1 and 2 respectively from the date of suit. Similarly, by the same Judgment and order dated 23.03.1993 the Ld. Civil Judge, Junior Division was pleased to direct that the charge of maintenance will remain on 1/2 share of the suit properties at Gat No. 388 (excluding land of Defendant No. 6), Gat No. 76, Gat No. 239.



3. The Petitioners state that the property being Gat No.388 admeasuring 7 Hector 01 Ares bearing Gat No. 388 situate at Village Vairaj, Taluka Barshi, District Solapur is the subject matter of the present Writ Petition and was also the subject matter of Regular Darkhast No.73 of 1993 in Regular Civil Suit No.304 of 1985 pending before the Court of Civil Judge, Junior Division, Barshi and is hereinafter referred to as "suit properties" for the sake of brevity.

4. That the Petitioners and the Respondent No.1 & 2 have hereby amicably settled the dispute in respect of the said premises on following terms:

- a) That the Petitioners and Respondent No.1 & 2 hereby agree that property in Gat No.388/2/2/D as per Nagarpanchayat Record No. 2208/10 admeasuring area 00.05R, be excluded from the sale certificate issued below Exhibit. 169 dated 27/04/2018. It is also agreed that the said property admeasuring area 00.04.5 R herein above referred to be given to Petitioner Nos.1 to 3 and also hereby confirms that the Petitioner Nos.1 to 3 have become absolute owner in respect of the said property.



b) That Respondent No.1 & 2 and the petitioners hereby agree that the land at out of Gat No.388/2/2/D admeasuring area 00.61 R sold as per sale deed dated.01.12.2011 to Shri. Mahadev Trimbak Kakade by the Original Defendant No.1 late Dadarao Krishna Sarvade be excluded from the sale certificate issued below Exhibit. 169 dated 27/04/2018 and sale certificate issued below Exhibit. 169 dated 27/04/2018 be modified in above terms. The Respondent Nos. 1 and 2 and the petitioners shall not have any rights nor shall claim any rights in future in respect to the said property at out of Gat No.388/2/2/D admeasuring area 00.61 R by reason of agreements/consent Respondent No.1 and 2 and the petitioners as aforesaid shall execute necessary documents/ papers if required before the appropriate authority.

c) That Respondent No.1 & 2 and the petitioners are hereby agree that the land at Gat No.388/2/2/D and Nagarpanchayat Record No. 2208/217 admeasuring area 00.02 R sold as per sale deed dated.11.06.2015 to Shri. Sandip Vishwanath Randave by the Original Defendant No.1 late Dadarao Krishna Sarvade, be excluded from the sale certificate issued below Exhibit. 169 dated 27/04/2018 and sale certificate issued below Exhibit. 169



dated 27/04/2018 be modified in above terms. The Respondent Nos. 1 and 2 and the petitioners shall not have any rights nor shall claim any rights in future in respect to the said property at Gat No.388/2/2/D admeasuring area 00.02 R by reason of agreements/consent Respondent No.1 and 2 and the petitioners as aforesaid shall execute necessary documents/ papers if required before the appropriate authority.

d) That Respondent No.1 & 2 and the petitioners are hereby agree that the land at in Gat No.388/2/2/D and Nagarpanchyat Record No.2208/87/1, 2208/87/2 and 2208/127 Total admeasuring area 00.02.5 R sold as per sale deeds dated. 27/01/2009, 29.12.2005 and 09.01.2009 and to Shri. Birmal Pithusha Hajare and Janabai Patusha Hajare by the Original Defendant No.1 late Dadarao Krishna Sarvade be excluded from the sale certificate issued below Exhibit. 169 dated 27/04/2018 and sale certificate issued below Exhibit. 169 dated 27/04/2018 be modified in above terms. The Respondent Nos. 1 and 2 and the petitioners shall not have any rights nor shall claim any rights in future in respect to the said property at Gat



No.388/2/2/D admeasuring area 00.02.5 R; by reason of agreements/consent Respondent No.1 and 2 and the petitioners as aforesaid shall execute necessary documents/ papers if required before the appropriate authority.

e) That Respondent No.1 & 2 and petitioners hereby agree that the Petitioner No.1 is entitled to withdraw the amount of Rs.11,00,000/- (Eleven Lakhs) deposited in the Civil Judge, Junior Division, Barshi Dist. Solapur in Regular Darkhast No.73 of 1993, as per receipts dated 17.09.2019 and 19.04.2022 deposited as per the orders passed by this Hon'ble High court in WP No.7720 of 2019 dated. 30.08.2019 and 16.03.2022. The Respondent No. 1 & 2 shall not object for said withdrawal of 11 lakhs in any manner and shall give necessary NOC/Signatures for release of the said amount of 11 lakh lying and deposited in Ld. Civil Judge, Junior Division, Barshi, Dist Solapur as per receipts dated 17.09.2019 and 19.04.2022;

That Petitioners are hereby agrees that the objections filed before Civil Judge, Junior Division, Barshi Dist Solapur in Regular Darkhast No.73 of 1993 by the Objectors be prosecuted/defended alone by the Respondent Nos.1 & 2 and petitioners will neither defend nor responsible for the outcome



of the objections filed by Objectors before Ld. Civil Judge, Junior Division, Barshi Dist Solapur.

g) That in WP No.7754 of 2021, WP No. 4652 of 2021 and WP No. 8625 of 2022 which arise from objections filed by the Objectors (details of objectors are mentioned in aforesaid writ petitions) a direction is given by this Hon'ble court by an orders dated.07.07. 2022 and 21.07. 2022 to deposit Rs.50,000/- each by cash in executing court, which will be subject to outcome of said objections filed and pending before Civil Judge, Junior Division, Barshi, Dist Solapur in Regular Darkhast No.73 of 1993;

h) That the Petitioners and their heirs and legal representatives and/or any person claiming under them shall have no legal right, title and interest in respect of the any property as per sale certificate issued below Exhibit.169 dated 27/04/2018 except the properties mentioned in clause 4(a) hereinabove in the Consent Term and sale certificate issued below Exhibit. 169 dated 27/04/2018 be modified in above terms.



i) Accordingly, impugned orders passed below Exh-168 dated 18.04.2018, order below Exh-177 dated 22.10.2018 and order below Exh-185 dated 02.03.2019 in Regular Darkhast No. 73 of 1993 passed by the Ld. Civil Judge, Junior Division, Barshi, District: Solapur be modified in above terms and thereby modifying the sale certificate issued Exhibit.169 dated 27/04/2018 and the present Writ Petition No.7720 of 2019 and Interim Application Nos.1595 of 2021 and 3473 of 2021 be disposed of in above terms.

j) No Orders as to costs.

Dated this 22nd July of 2024

1. Shri. Chandrakant Dadarao Sarvade → Sarvade C.D
2732 8946 8026
2. Shri. Sashikant Dadarao Sarvade → श्री शिकंत
2245 2605 5607
3. Shri. Anand Dadarao Sarvade → Anand Sarvade
6191 9764 9689
4. Smt. Reshma Govind Padule → रेश्मा गोविंद पाडुले
3466 5596 1072
5. Smt. Sushma Kailas Aaldar → SKAaldar
6201 2847 9128



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RHTI at Parvatibai Dadarao Sarvade

Election ID No - NK 222229284

1. Parvatibai Dadarao Sarvade

Aadhar - 2838 7921 8065

2. Vijaya Dadarao Sarvade, @

Smt. Vijaya Santosh Waykule

Advocate for the Petitioners
Ramdes Hakepatil

Advocate for the Respondent
No. 1 & 2 (S.P. Chembur)

22 JUL 2024

SIGNED BEFORE ME
BHAVANA RAJ KHEMANI
Advocate & Notary
Flat No. 204, Ankur Opp.
Bhavan's College, Andheri (West),
Mumbai-400058, Maharashtra

NOTED & REGISTERED
AT Sr. No. 444/2024, 200
THIS DOCUMENT IS CANTONS
10 pages

Pan No./Adhar No./Election ID No./
Driving Licence No./Emp. ID No.

3. Parties are bound by the rights and obligations and more specifically obligations to be fulfilled and stated in the Consent Terms. The obligations are taken as undertaking given to this Court and

parties shall abide by them.

4. As delineated in clause (i) of paragraph No.4 of the Consent Terms, the learned Executing Court is directed to consider the modification of sale certificate issued under Exhibit-169 dated 27.04.2018 as per Consent Terms executed between the parties and sale shall be done on server copy of this order presented before learned Executing Court insisting on any further application. It is clarified that said modification shall be executed by learned Executing Court within a period of two weeks from date on which server copy of this order is presented before learned Executing Court.

5. Order in terms of Consent Terms.

6. With the above directions, Writ Petition No.7720 of 2019 is disposed.

7. In view of disposal of Writ Petition, Interim Application No.3795 of 2020, Interim Application No.3473 of 2021 and Interim Application No.1595 of 2021 are also disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA
HANUMANT
SAWANT
Digitally signed
by HARSHADA
HANUMANT
SAWANT
Date: 2024.07.22
18:28:35 +0530