

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9650 OF 2024

Pratap Fatumal Dhara ... Petitioner

Versus

The State of Maharashtra Through Its Principal Secretary & Ors ... Respondents

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Mr. Valmiky Narvekar, with Mr. Akshay Giri, for the Petitioner.

Mr. Y.D. Patil, A.G.P. for the Respondent – State.

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CORAM : AVINASH G. GHAROTE, J.

DATE : 18th JULY, 2024

P.C.:

1. The learned counsel for the petitioner does not dispute that Assandas Dharra had three children and a wife, viz., Kamlesh, Murlidhar, Pradeep (respondent No.5) and Chandrabai, out of which Chandrabai on 25.07.1986, consequent to the demise of Assandas Dharra, had executed a registered List of Partition on 25.07.1986, recognizing the division already made in the year 1975. It is not disputed that apart from Chandrabai, Kamlesh, Murlidhar and Pradeep were also sons of Assandas Dharra, having

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legal right in the immovable property. Murlidhar, son of Assandas Dharra is claimed to have passed away bachelor, it is therefore contended that the findings recorded by the respondent No.1 by the impugned order dated 29.11.2023 that the Partition List dated 25.07.1986 (page 33) was invalid, would not be correct, as all that can be said about it, is that it would not affect the right of Kamlesh and Pradeep and would not be invalid in its entirety.

2. The petitioner has already filed a suit bearing S.C. Suit No. 1840 of 2018 claiming a declaration that the Partition dated 25.07.1986 is binding upon all legal heirs of Assandas Dharra, as well as the parties to the suit.

3. It is necessary to note that the entitlement of the legal heirs of Assandas Dharra, viz., Kamlesh, Murlidhar and Pradeep, would be determined, vis-a-vis the Partition List dated 25.07.1986, in the suit filed by the present petitioner, in view of which, I see no reason to interfere with the impugned order, as the result in the suit shall bind all the persons, who are parties therein, including Kamlesh, Pradeep and the persons who claim the entitlement to the share of Murlidhar.

4. It is also made clear that any findings rendered by

respondent No.1 vis-a-vis the Partition Deed dated 25.07.1986, would not come in the way of the petitioner, in seeking relief in the suit filed by him

5. The petition is disposed of in the aforesaid terms. No costs.

(AVINASH G. GHAROTE, J.)