

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17249 OF 2024

SATISH
RAMCHANDRA
SANGAR

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SATISH RAMCHANDRA
SANGAR
Date: 2024.12.05
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1. **Shri Appasaheb Nivrutti Bhande**
Age : 50 Years, Occupation : Agriculture
2. **Shri Shivraj Appasaheb Bhande**
Age : 26 Years, Occupation : Agriculture
3. **Shri Sandip Appasaheb Bhande**
Age : 23 Years, Occupation : Agriculture
4. **Mrs.Ulkabai Appasaheb Bhande**
Age : 42 Years, Occupation : Household

All residing at : Garwad, Taluka : Malshiras,
District : Solapur.

...Petitioners
(Appellants)

Versus

1. **Mr Bhausahab Nivrutti Bhande**
Age : 53 Years, Occupation : Agriculture
2. **Mr Nivrutti Rama Bhande**
Age : 73 Years, Occupation : Agriculture
3. **Smt Girijabai Nivrutti Bhande**
Age : 73 Years, Occupation : Household
4. **Mr Tatyasaheb Nivrutti Bhande**
Age : 58 Years, Occupation : Agriculture
5. **Mr Ravsaheb Nivrutti Bhande**
(Died : Through Legal Representatives)
- 5a. **Smt Sangita Ravsaheb Bhande**
Age : 55 Years, Occupation : Household

5b. **Mr Babasaheb Ravsaheb Bhande**
Age : 35 Years, Occupation : Agriculture

5c. **Mr Satish Ravsaheb Bhande**
Age : 33 Years, Occupation : Agriculture

5d. **Mr Rushikesh Ravsaheb Bhande**
Age : 33 Years, Occupation : Agriculture

5e. **Sou Reshma Dananjay Devkar**
Age : 37 Years, Occupation : Household

Respondent Nos.1 to 5(d) residing at:-
Garwad, Taluka : Malshiras, Dist. : Solapur
and Respondent No.5(e) residing at:-
Babulgaon, Taluka : Indapur, Dist. : Pune.

6. **Mr Ramchandra Santu Sonavane**
Age : 40 Years, Occupation : Agriculture

7. **Mr Kashinath Pawar**
Age : 41 Years, Occupation : Agriculture

Respondent Nos.7 and 8 residing at:-
Garwad, Taluka : Malshiras, Dist. : Solapur. ...Respondents

Mr.Ajay A. Joshi:-	Advocate for Petitioners.
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CORAM : **S. M. MODAK, J.**

DATE : **4th DECEMBER 2024**

P.C. :-

1. Heard learned Advocate Shri.Joshi for the Petitioners who are the Appellants. In their Civil Appeal No.30 of 2013, initially, stay was

granted to the execution of the Partition Decree on 25th June 2013. [Page No.61(A)]. It was confirmed on 10th June 2014. (Page No.62). However, the said Appeal was dismissed on 19th March 2022 by the Appellate Court (Page No.63) for want of prosecution. The Appellants have filed an Application for restoration of the Appeal which is on Page No.65.

2. This Appeal is preferred against the judgment and preliminary decree passed in Regular Civil Suit No.315 of 2011. (Page No.46). The present Petitioner No.1 was the Defendant No.1. There was an Application for stay of execution of decree. It was rejected as per the order dated 25th October 2024. (Page No.79). This is under challenge by way of this Writ Petition.

3. Issue notice before admission to the Respondents returnable on 3rd February 2025.

4. Leave to amend the name of Respondent No.1 is granted.

5. There is a prayer for granting an interim protection. My attention is invited to the following documents:-

(a) The letter dated 7th October 2024 written by the Tahsildar to the Police Inspector – Malshiras Police Station for giving Police protection.

(b) A chart prepared by Taluka Inspector of Land Records (“TILR”) on Page No.82 and the statement of the Plaintiff on Page No.83. They are annexed to the Affidavit on Page No.78. It was filed as per the direction given by this Court.

6. The contention is, the Plaintiff wants possession of excess area of the land then allotted to his share as per the decree passed in Regular Civil Suit No.315 of 2011. In fact, the properties are partitioned in decree passed in earlier Regular Civil Suit No.556 of 2003. The Plaintiff is already having in possession of certain portion of land. It is mentioned in Para No.5 of the latest Affidavit. In Para No.4, the Petitioner has explained the lands in his possession and certain wells. Even though, the Plaintiff is having claim over the possession of more land, it can be considered only after the Revenue Authorities will follow the proper procedure is the submission.

7. Now, the hearing is kept before the Tahsildar – Malshiras on 6th December 2024. This submission is made without prejudice to the contentions raised in the Appeal which is dismissed for default and the restoration is pending.

8. In view of the above submission, certain interim protection can be granted. Hence, order:-

ORDER

- (i) The Police Inspector – Malshiras Police Station should not act upon the letter dated 7th October 2024 given by the Tahsildar – Malshiras, until further orders.
 - (ii) The Tahsildar – Malshiras before whom the hearing is kept, to hear the parties and to pass appropriate orders as per the merits.
9. Parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]