

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. OF 2024

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|----|---------------------------------------|------------------|
| 1. | Anandibai Nivrutti Kinhale |] |
| | Age – 75 years, Occu. - Agriculture & |] |
| | Household |] |
| 2. | Bajrang Nivrutti Kinhale |] |
| | Age – 56 years, Occu. - Agriculture |] |
| | Petitioners No.1 and 2 R/o. Mandki, |] |
| | Tal. Purandar Dist. Pune. |] |
| 3. | Jayshree Vilas Ranjane |] |
| | Age – 51 years, Occu. - Agriculture & |] |
| | Household |] |
| | R/o. Sawant Corner Building, |] |
| | Katraj Bus Stop, Katraj |] |
| | Dist. Pune |] |
| 4. | Phulabai Maruti Dhumal |] |
| | Age – 65 years, Occu. - Agriculture & |] |
| | Household, |] |
| | R/o. Jeur, Tal. Purandar, |] |
| | Dist. Pune. |] |
| 5. | Bharat Nivrutti Kinhale |] |
| | Age – 54 years, Occu. - Agriculture |] |
| | R/o. Mandki, Tal. Purandar, |] |
| | Dist. Pune |]... Petitioners |

Versus

- | | | |
|----|------------------------------------|---|
| 1. | Anjanabai Kinhale alias Jagtap |] |
| | Age – Adult, Occu. - Agriculturist |] |
| | R/o. Mandki, Tal. Purandar, |] |
| | Dist. Pune. |] |

2. Vatsalabai Ramchandra Pawar]
 Age – Adult, Occu. - Agriculturist]
 R/o. Mandki, Tal. Purandar,]
 Dist. Pune.]... Respondents

Mr. Sarthak S. Diwan :-	Advocate for Petitioners.
Mr. Nitin Gaware Patil a/w. Mr. Divyesh Jain and Mr. Hrushikesh Korhale :-	Advocates for Respondents.

CORAM : S. M. MODAK, J.

DATE : 18th DECEMBER 2024**ORAL ORDER :-**

1. Heard learned Advocate Mr. Diwan for petitioners and learned Advocate Mr. Gaware-Patil for respondents/ Decree Holder. There is partition decree passed by the Court of Civil Judge Junior Division, Saswad on 21st January 1983 (page No.18). There is consent terms. This decree was challenged before the first appellate Court and second appellate Court at the instance of Judgment Debtor (JD) however, they have failed. Now it has attained finality. The Decree is put to execution. Earlier the petitioners have filed Writ Petition No.8141 of 2024. At that time also there was sole grievance raised about Watap

Takta. That is recorded in paragraphs No.3, 4 and 5 of the order dated 11th June 2024. This Court granted liberty to adjudicate their grievance before appropriate forum in accordance with law and accordingly said Writ Petition was disposed of. Even the Competent Authority was granted liberty to have fresh Watap Takta.

2. On this ground the Revenue Authorities have prepared fresh Watap Takta. It is forwarded by Deputy Superintendent of Land Records, Purandar as per letter dated 1st October 2024 addressed to the Civil Court (page No.92). The executing Court has heard both the parties. The present petitioner has taken objection. It was rejected by the executing Court as per the order dated 19th November 2024 (page No.121). There is challenge to this order.

3. On the last date this Court directed the parties to ascertain whether the Revenue Authorities have recorded their statements. Mr. Diwan has produced two documents :-

- (i) Letter dated 13th December 2024 rejecting request to issue copy of another statement. It was rejected.
- (ii) Statement of the DH – Anjanabai dated 8th July 2024.

4. Both the documents are marked as exhibits No.A and B. The statement records measurement was taken as per the boundaries shown

by the parties. The submission of Mr. Diwan is there is variance in share of the parties described in the suit land on page No.5 of the plaint on one hand whereas on the other hand in the Decree the area of these lands are considered to the full instead of half. He has also raised one contention in respect of fresh Watap Takta on page No.93. According to him the area shown in respect of these Suit lands on one hand and the adjoining area shown in the plaint does not tallies.

5. According to learned Advocate Mr. Gaware-Patil these areas in the Watap Takta itself has been recorded on the basis of the record. There is 7/12 extract and is having serious objection about interference of this Court at the stage of execution through Revenue Officers. He relied upon the observations in the case of **Prakash Nathyaba Bhosale vs. Laxman Ganaba Bhosale**¹ and more particularly paragraph No.40. Whereas learned Advocate Mr. Diwan has invited my attention to observations in paragraph No.30. To counter the arguments Mr. Gawawre-Patil has produced copy of Suit filed by the petitioner – Bajarang. The Suit is filed before the Court of Civil Judge Junior Division, Saswad bearing Regular Civil Suit No.82 of 2024. The

1 2002 SCC onLine Bom 737

defendants are one Anjanabai and Vatsalabai. On the basis of one will deed he has sought declaration as to his ownership. According to him the suit lands therein are nothing but the suit lands in a partition Suit.

6. I am not impressed by the arguments advanced by learned Advocate Mr. Diwan. His clients have already exhausted remedies available as per law. So if this Court will entertain the petition contained such grievances, then it will be abuse of process of law. Hence, no interference is warranted. Hence I pass following order :-

ORDER

- (i) Writ Petition is disposed of.
- (ii) There shall be no order as to costs.

[S. M. MODAK, J.]