



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

901 WRIT PETITION NO. 81 OF 2025

RATNAKAR ALIAS YESHWANT TUKARAM KURKURE DIED THROUGH LRS
YOGESHWAR YESHWANT KURKURE AND OTHERS

VERSUS

THE DISTRICT COLLECTOR JALGAON AND OTHERS

Mr.P.V. Balkhande, Advocate for the petitioners.
Mr.K.S. Patil, AGP for the respondent-State.

CORAM : KISHORE C. SANT, J.
DATE : 07.01.2025

PC :-

01. Heard learned Advocate for the petitioners for long time. Yesterday i.e. on 06.01.2025 this petition was on Board and it was adjourned for today for taking instructions by the learned Advocate for the petitioners.

02. This Court had initially raised point about delay and latches in filing this petition, as the challenge in this petition is to an order dated 17.02.2016 passed below Exh.1 by the Executing Court in Regular Darkhast No.13 of 2014. The learned Executing Court recorded that the judgment debtors have given no objection to the execution of the decree. The precept was issued to the learned Collector, Jalgaon for effecting partition of the property as per the decree and hand over possession to the decree holders. Petitioner No.3 filed an application for setting aside

exparte order dated 17.02.2016 contending that when the order was passed he was minor and was not aware of the proceedings. However, it is seen that he and his mother are party to the execution proceeding.

03. Now this petition is filed stating that the cause of action arose on 17.12.2024 when the Circle Officer, Savda, Tal. Raver issued notice to hand over possession on 27.12.2024. By another notice dated 17.12.2024, now date is fixed for handing over possession today.

04. This Court finds that this petition is only an attempt to prolong the execution proceedings. The petition is silent as to why the order dated 17.02.2016 could not be challenged. The only explanation offered is that father of the petitioner died in 2008, when he was minor. However, as stated above, these petitioners are very much parties to the proceedings. Petitioner No.2 is mother of petitioner Nos. 1 and 3. At least she could have filed an application. It is seen that other Judgment Debtors who are present respondent Nos. 5A, 5B and 5C have given no objection long back on 17.02.2016 itself. They have never challenged the execution proceeding or the impugned order. Considering all these, this Court finds that the petition is misconceived. No interference is required at the hands of this Court.

05. The petition stands dismissed with no order as to costs.

[KISHORE C. SANT, J.]