



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

931 WRIT PETITION NO. 1160 OF 2025

SUDANLAL GOKULPRASAD JAISWAL

VERSUS

GOKULPRASAD RAMDINLAL JAISWAL AND OTHERS

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Advocate for the Petitioner : Mr. Ravibhushan P. Adgaonkar
Advocate for Respondents No.1, 2, 4, 6 to 8 : Mr. Kailas B. Jadhav
Advocate for Respondent No.5 : Mr. Ajinkya S. Deshpande

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CORAM : ARUN R. PEDNEKER, J.

DATE : 04.11.2025

PER COURT:

1. Heard.

2. The petitioner challenges the order dated 03.01.2025 passed in Exhibit-1 in Civil Miscellaneous Application No.189/2024 filed under Section 24 of the Code of Civil Procedure before the Principal District Judge for transfer of the civil suit from Civil Judge Senior Division, Sillod to Civil Judge Senior Division, Aurangabad. The said application has been rejected by the Principal District Judge, Aurangabad / concerned court. Accordingly, the present writ petition is filed.

3. The learned counsel for the petitioner submits that he has filed a suit for partition and that there are various properties of the family situated at Aurangabad, Sillod and at Bhokardan. The suit for partition was filed at Aurangabad. At the relevant time,

when the suit was filed there was no senior division court at Sillod. Later on senior division court was established at Sillod and all the pending matters in Aurangabad which would ordinarily lie within the jurisdiction of Sillod court are transferred to Sillod. After the suit was transferred to the senior division court at Sillod, the petitioner filed an application before the Principal District Judge for transfer of the suit from the court of Civil Judge Senior Division, Sillod to the court of Civil Judge Senior Division at Aurangabad. His contention is that all the contesting parties are residents of Aurangabad and one of the suit property is situated at Aurangabad. As such, the suit is maintainable at Aurangabad and it should have not been transferred to Sillod.

4. The said application was resisted by the present respondents / defendants except respondent no.5. Respondent No.5 who has conceded to the transfer. However, the other defendants resisted the application for the reason that large number of properties are situated at Sillod.

5. Considering the submissions of the parties, application under Section 24 has been rejected by the court on the ground that the petitioner being the senior citizen alone cannot be a ground to transfer the proceedings to Aurangabad.

6. The learned counsel for the petitioner submits that the suit itself is maintainable at Aurangabad as one of the suit property is situated at Aurangabad. He points out the suit properties of the parties in the civil suit, the property no. "T" is the house property situated in Aurangabad district, which is stated to be the joint family property and most of the parties are residing at Aurangabad. He submits that from the cause title it can be seen that the most of the contesting parties are residing in the same property. He submits that the suit is maintainable at Aurangabad and it ought not to have been transferred to Sillod. This is not an application merely on the ground of convenience but on the ground of jurisdiction and the plaintiff is entitled to maintain the suit in Aurangabad. As such, he submits that the transfer of the suit is wrongly made to Sillod.

7. Per contra, the learned counsel appearing for the respondents / defendants submits that after the court is established at Sillod in view of large number of properties involved in the suit are situated at Sillod, the suit is transferred at Sillod and that it would be more appropriately defended at Sillod and that Sillod court has jurisdiction to entertain the same.

8. Having considered the rival submissions and, more particularly, Section 17 of the CPC, the plaintiff is entitled to

maintain the partition suit at Aurangabad as one of the immovable property is situated within the local limits of Aurangabad.

9. The Hon'ble Apex Court in the case of **Shivnarayan (Dead) by Legal Representatives Vs. Maniklal (Dead) Through Legal Representatives and others, (2020) 11 SCC 629** has observed at paragraph no.34.4 as under:

"34.4 A suit in respect of more than one property situated in jurisdiction of different courts can be instituted in a court within local limits of jurisdiction where one or more properties are situated provided suit is based on same cause of action with respect to the properties situated in jurisdiction of different courts."

10. In the instant case, the suit is for partition. The property at Aurangabad is also put in partition. In view of the same, the court at Aurangabad has jurisdiction to decide the suit and the petitioner being the *dominus litus* is entitled to proceed with the suit at Aurangabad. Thus, Special Civil Suit No.423/2021 (Old) / Special Civil Suit No.71/2024 (New) shall stands transferred from Sillod to appropriate civil court at Aurangabad.

11. The Writ Petition stands accordingly disposed of.

[ARUN R. PEDNEKER, J.]