



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

960 WRIT PETITION NO. 2898 OF 2024

Dattu Narayan Chaudhari
Died through Lrs.

- 1-A] Sumanbai Dattatray Choudhari
Age :- 70 years, Occ. Household,
R/o. Morewadi, Tq. Ambajogai, Dist. Beed
- 1-B] Suresh Dattatray Choudhari
Age :- 50 years, Occ. Agri,
R/o. Morewadi, Tq. Ambajogai, Dist. Beed
- 1-C] Savita Narsing Male
Age :- 45 years, Occ . Household,
R/o. Alandi, Pune, Dist. Pun
- 1-D] Sangita Dattatray Choudhari
Age :- 38 years, Occ. Household
R/o. Morewadi, Tq. Ambajogai, Dist. Beed
- 1-E] Ganesh Dattatray Choudhari
Age :- 33 years, Occ. Agri,
R/o. Morewadi, Tq. Ambajogai, Dist. Beed
- 1-F] Santosh Dattatray Choudhari
Age:36 years, Occ. Agri,
R/o. Morewadi, Tq. Ambajogai, Dist. Beed.
- 1-G] Nitin Dattatray Choudhari
Age :- 30 years, Occ. Agri,
R/o. Morewadi, Tq. Ambajogai, Dist. Beed
- 2] Ashok s/o. Narayan Chaudhari
Age :- 68 yrs; Occu: Agri,
R/o. Morewadi, Tal : Ambajogai,
Dist : Beed

...Petitioners

VERSUS

- 1] Kamalbai @ Vanmala w/o Damodhar Chaudhari,
Since died through added decree holders

- 1-A] Sunanda Annasaheb Lomte
Age: 62 Yrs; Occu: Agri,
R/o: Khadakpura, Ambajogai,
Tal: Ambajogai, Dist: Beed.
- 1-B] Satyawati Mallikarjunappa Chaudhari
Age: 67 Yrs; Occu: Service and Agri,
R/o: Prashant Nagar, Ambajogai,
Tal: Ambajogai, Dist: Beed.
- 1-C] Kanchan Kishor Girwalkar
Age: 58 Yrs; Occu: Agri,
R/o: Ambedkar Chowk, Ambajogai,
Tal: Ambajogai, Dist: Beed.
- 1-D] Sudha Sudhakar Chikhalikar
Age: 57 Yrs; Occu: Agri,
R/o: Housing Society, Ambajogai,
Tal: Ambajogai, Dist: Beed.
- 1-E] Vijaymala Sitaram Pawar
Age: 63 Yrs; Occu: Agri,
R/o: Devla, Tal: Ambajogai,
Dist: Beed.
- 2] The Tahasildar, Ambajogai,
Tq. : Ambajogai, Dist : Beed

...Respondents

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Mr. H. D. Deshmuk, Advocate for the Petitioner

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CORAM : ROHIT W. JOSHI, J.**DATED : 27th JUNE 2025****ORAL JUDGEMENT :-**

1. The petitioner is the original judgment debtor. The decree for partition came to be passed against the petitioner in Regular Civil Suit No.746 of 1987. The said decree for partition was put to execution

vide Execution Petition (Regular Darkhast) No.113 of 1995.

2. The petitioner claims that thereafter there was a compromise between the decree holder and judgment debtor on 13.06.1996. However, since the decree holder was indisposed, the compromise could not be verified and recorded by the the learned executing court. It appears that the revenue authority to whom precept as per Section 54 of the Code of Civil Procedure was issued by the learned executing court is now executing the decree for partition by a division of the suit field by metes and bounds.

3. In this backdrop, the petitioner had approached the learned executing court stating that the matter was compromised *inter se* between him i.e. judgment debtor and decree holder. It will be pertinent to mention that after issuance of precepts the execution petition was dismissed for want of prosecution vide order dated 14.06.2017. The petitioner therefore also stated in his objection that since the Darkhast petition was dismissed in default, the suit field could not be partitioned as was sought to be done by the revenue authorities.

4. The petitioner as stated above moved the learned executing court in disposed of Execution Petition No. 113 of 1995 requesting to

record that the decree passed in Regular Civil Suit No.746 of 1987 was fully satisfied. Vide order dated 09.01.2024, the learned executing court has rejected the said application. The present petition is filed assailing the said order.

5. As regards the contention of the learned Counsel for the petitioner that the precept cannot be executed since the execution petition is dismissed for want of prosecution on 14.06.2017, the said objection is liable to be rejected since once precept is issued for partition of agricultural lands the executing court loses control over the matter and the authority to execute the decree by effecting partition is vested with the revenue authorities. Therefore dismissal of execution petition filed before the learned Executing Court will therefore not be an impediment for execution of decree for partition by revenue authorities. As regards the second contention, the same is also rightly rejected in view of the fact that the decree holder had admittedly not confirmed the alleged settlement before the learned executing court.

6. In view of the aforesaid, the petition deserves to be dismissed and is accordingly dismissed with no order as to costs.

[ROHIT W. JOSHI, J.]