



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

WRIT PETITION NO. 1064 OF 2025

Kurlibai Sarangdhar Kale And Another

VERSUS

Gayabai Devidas Jadhav And Others

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Advocate for Petitioners : Mr. P. N. Sonpethkar

Advocate for Respondents : Mr. A.A. Khande & R.V. Gore

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CORAM	: S. G. CHAPALGAONKAR, J.
Reserved on	: July 31, 2025
Pronounced on	: August 13, 2025

FINAL ORDER :-

1. The petitioners have approached this court with following prayers :-

“C. The impugned award passed by the Lok-Adalat, Gangapur in R.C.S. No.347 of 2019 dated 27.7.2024, which is at Exhibit-A may kindly be quashed and set aside.

C-1. It may kindly be declared that, in compromise Award/Decree dated 27.7.2024 at Exhibit-A, on the petitioners in respect of land gut no.32 to the extent of 1 Acre 32 Gunthas, situated at Ambelohol, Tq. Gangapur, District Aurangabad not binding on the Petitioners and it may kindly be further declared that the same is null, void ab-initio and illegal.”

2. Mr. Sonpethkar, learned advocate appearing for petitioners submits that land gat no.32 was owned by one Karbhari Pradhan/Respondent no.2. On 3.1.1989 Karbhari

assigned the rights in favour of his wife Ashabai Pradhan and handed over possession of 1 Acre 32 Gunthas land to her for purpose of maintenance. Ashabai executed sale-deed dated 2.6.2016 in favour of petitioners and transferred land. Petitioners are enjoying ownership and possession of the suit land since then. Karbhari filed regular Civil Suit No.46 of 2015 against his wife Ashabai and petitioners/purchasers seeking declaration that the registered sale-deed no.2419 dated 2.6.2016 executed by Ashabai is ineffective. Said suit is pending adjudication before learned Civil Judge Jr. Division, Gangapur.

3. Mr. Sonpethkar would further submits that sister of Karbhari filed R.C.S. no.347 of 2019 seeking the decree of partition and separate possession in respect of the suit property i.e. gat no.32 admeasuring 1 Acre 32 R (which is also subject matter of R.C.S. No.46 of 2015 instituted by Karbhari). It was a collusive suit. In that suit Karbhari Pradhan and his sister entered into compromise before National Lok-Adalat. Eventually, decree of partition is passed showing distribution of shares amongst Karbhari and his sister. Such a decree is obtained without adding the petitioners or their vendor

Ashabai, as party. He would therefore urge that the compromise decree passed in R.C.S. No.347 of 2019 is fraudulent and not binding on the right of petitioners. He, therefore, seeks setting aside of the compromise decree dated 27.7.2024, so also seeks declaration that such a decree would not be binding on the rights of petitioners.

4. Per contra, Mr. Khande, learned advocate appearing for Respondents submits that on 3.1.1989 an assignment-deed was executed by Karbhari granting limited rights/lifetime interest in favour of Ashabai for her maintenance to the extent of 1 Acre 32 Gunthas land from gat no.32 and she was put in possession. Lifetime interest was created with specific clause that she would have no right to transfer or create third party interest over the property. Ashabai exceeded her right and executed invalid sale-deed in the name of petitioners. He would submit that apart from Karbhari, his sisters were also entitled for share in suit land. Accordingly, Gayabai, who is sister of Karbhari had instituted the R.C.S. No.347 of 2019 seeking decree of partition and separate possession. The same has been compromised before the permanent Lok-Adalat and decree is passed. Petitioners

cannot seek any right over the suit property, nor they can assert that Award passed before the Lok Adalat is fraudulent or ineffective.

5. Having considered the submissions advanced, it can be observed that under registered instrument dated 3.1.1989 lifetime interest was created in favour of Ashabai w/o Karbhari Pradhan for maintenance. Land admeasuring 1 Acre 32 Gunthas out of gat no.32 was given in her possession. She transferred said land in favour of petitioners under the registered sale-deed dated 2.6.2016. Apparently, Karbhari has instituted R.C.S. No.46 of 2015 against his wife Ashabai seeking cancellation of registered instrument dated 3.1.1989 and same is pending. In that suit, by incorporating amendment, he has challenged validity of registered sale-deeds executed by Ashabai in favour of petitioners. Admittedly, said suit is still pending.

6. It is true that Gayabai i.e. sister of Karbhari instituted R.C.S. no.347 of 2019 seeking decree of partition and separate possession in respect of suit properties including land gat no.32, which was given for maintenance of Ashabai. In that suit, petitioners or Ashabai were not made party and

compromise is recorded behind their back before Lok-Adalat, thereby carving out shares from land gat no.32, which is now in possession of the petitioners.

7. It is trite that a compromise decree would bind to the parties to the suit. Admittedly, petitioners or their vendor Ashabai were not made party in R.C.S. No.347 of 2019. Therefore, if Ashabai had right to transfer the property in favour of petitioners, in absence of declaring their sale-deeds as invalid, a compromise decree would not bind to petitioners. The issue as to validity of sale-deed executed by Ashabai in favour of petitioners or entitlement of Ashabai to deal with the property gat no.32 on the basis of registered instrument dated 3.1.1989 is subject matter of R.C.S. No.46 of 2015, which is still pending. Therefore, although, from the compromise decree/Lok Adalat award dated 27.7.2024 passed in R.C.S. No.347 of 2019, right of petitioners appears to have been affected, the decree would not bind on them unless their sale-deeds are held to be illegal or ineffective in the suit instituted by Karbhari.

8. It is difficult to hold that the compromise decree is fraudulent and prejudiced the rights of petitioners. Petitioners have their own remedies in case the compromise decree is utilized to prejudice their rights.

9. In that view of the matter, writ petition stands **dismissed** without prejudice to the rights of petitioners to claim immunity from the compromise Award/decreed dated 27.7.2024.

(S. G. CHAPALGAONKAR)
Judge

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