



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

WRIT PETITION NO. 372 OF 2025

Ganpati Rama Wagh and others .. Petitioners

Versus

Sakhubai Kashinath Godase and others .. Respondents

Mr. Kishor R. Doke, Advocate for the Petitioners.

CORAM : KISHORE C. SANT, J.

DATED : 11th FEBRUARY, 2025.

P. C. :-

. Heard learned advocate for the petitioners.

2. The petitioners are original judgment debtor Nos. 2, 5 and 6 in R.D. No. 04/2022 filed by the present respondent No. 1 – Sakhubai. The objection of the petitioners to the execution at the instance of respondent No. 1 was that, she is not a party to the suit as a plaintiff, but was defendant. Being a defendant she cannot file proceeding for execution of a decree against other defendants.

3. The learned Trial Court considered the application. It is observed that, the suit was filed for partition and separate possession in which the defendants are also held entitled to receive 1/5th share each in the name of Sakhubai and Kashibai in the suit property. The learned

Trial Court considered that, in partition suit everyone is a plaintiff. Since the plaintiff has not filed execution proceeding, the defendant has every right to file execution proceeding. As it is, the learned Trial Court held that, Sakhubai and Kashibai also have 1/5th share in the property and therefore, rejected the application.

4. This Court does not find any illegality committed by the learned Trial Court and no perversity is pointed out in the reasoning.

5. Considering the above, this Court does not find any merit in the writ petition. The writ petition stands dismissed. No order as to costs.

(KISHORE C. SANT, J.)

P.S.B.