



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

962 WRIT PETITION NO. 12578 OF 2024

SHALANBAI SHANKAR MANJRE
VERSUS
SUNDARBAI CHHABU MANJRE AND OTHERS

...
Mr. V. D. Sapkal, Senior Advocate h/f. Mr. Sandip R. Sapkal, Advocate
for the Petitioner.

...

CORAM : R. M. JOSHI, J.

DATE : 19th SEPTEMBER, 2025

P.C.:-

1. Heard Mr. V. D. Sapkal, learned Senior Advocate for the Petitioner. Despite service of notice, none appears on behalf of the Respondents. Their absence indicates lack of inclination to oppose the petition, particularly, in view of the reply filed before the Trial Court, wherein the Respondents had accepted the setting aside of the compromise decree passed in R.C.S. No.20 of 2005.

2. Learned Senior Advocate has drawn attention of the Court to the fact that the original suit being R.C.S. No.20 of 2005, which was filed for partition between the husband of the Petitioner and his brother. Essentially, the property involved therein is admittedly not a joint family property, but an encroached property by Petitioner to her husband, which was subsequently regularised. Despite of such nature of the suit property, the suit came to be filed without joining the

Petitioner as Defendant.

3. After getting knowledge of the fact of passing of the decree behind back of the Petitioner, proceeding came to be filed being R.C.S. No.68 of 2024. In this suit parties entered into compromise and reply was filed for seeking setting aside the decree passed in R.C.S. No.20 of 2005. This request of parties was turned down by Trial Court, hence this petition.

4. Learned Senior Advocate for the Petitioner submits that the Trial Court has committed an error in not appreciating the fact that the Plaintiff in R.C.S. No.20 of 2005 was not entitled for partition, as the property involved therein was jointly held by the Petitioner along with her husband. Thus, it is his submission that the Trial Court has committed error in making observations, that it was a suit for partition of joint family properties and the wife had no right, title and interest in the said property.

5. Prima-facie, perusal of the record indicates that R.C.S. No.20 of 2005 was filed in respect of property bearing Gat No.2, hector 20R, situated at village Nevargaon, Taluka Gangapur, District Ch. Sambhajinagar. The said land was an encroached property, which was subsequently regularised by the Tehsildar, Gangapur in the name of

Petitioner and her husband. Thus, the Petitioner had equal share in the subject property. Since admittedly, the suit being R.C.S. No.20 of 2005 came to be filed behind back of the Petitioner, it was open for the parties after realising the said error to enter into a compromise for setting aside the decree passed in earlier suit. These aspects are not taken into consideration by the Trial Court and the observation that previous suit was for partition of joint family property is not factually correct. As a result of the same, order impugned came to be passed and in the facts of the case, the impugned order cannot be sustained and deserves to be set aside.

6. The Trial Court is directed to pass formal order accepting the compromise decree.

7. Petition stands allowed in the above terms.

(R. M. JOSHI, J.)