



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

945 WRIT PETITION NO. 86 OF 2023

DADARAO APPARAO THOMBARE DIED THROUGH L.RS. SINDHUBAI
DADARAO THOMBARE AND ANOTHER

VERSUS

ANIL KISANRAO THOMBARE AND OTHERS

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Mr. P.R. Katneshwarkar, Senior Counsel i/b. Ms. Snehal P. Kulkarni –
Advocate for Petitioners

Mr. S.A. Deshmukh – Advocate for Respondent Nos.1, 4 and 5/C

Mr. V.S. Badakh – AGP for Respondent No.6, State

Mr. R.R. Bangar – Advocate for Respondent No.7

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 03.12.2025

PER COURT :

1. Heard learned Counsel for the respective parties.
2. The petitioners challenge the order dated 19.12.2019 passed by the 3rd Jt. Civil Judge, Senior Division, Osmanabad, in L.A.R. No.307/2016, whereby the application filed by respondent Nos. 1-A to 1-D and 2 came to be rejected.
3. The learned Trial Court, while considering the application, recorded a finding in paragraph 20 that *the similar type of application was rejected in the said suit on the same grounds. Unless the shares are determined, it is impossible to decide who holds how much share. In*

such circumstances, it cannot be said that the respondents are having 5/6th share and the claimants are having 1/6th share in the compensation and observed that it is for the Court to decide the shares of each of the parties.

4. Learned Senior Counsel – Mr. P.R. Katneshwarkar appearing for the petitioners submits that, as the other legal heirs have already given no objection in favour of the petitioners and as the original plaintiff Nos.1 and 2 and defendant No.4 – Fulchand Kisanrao Thombre are entitled to receive 1/3rd share, by keeping aside the said 1/3rd share, the remaining amount can be disbursed in favour of the petitioners. He further submits that the petitioners cannot be compelled to wait till the suit is decided on merits.

5. Considering the specific submissions, if the interest of respondent No.1-A to 1-D and 2 is protected, there is no difficulty for the Trial Court to pass an appropriate order regarding disbursement in favour of the petitioners.

6. Therefore, I deem it proper to quash and set aside the order dated 19.12.2019 passed by learned 3rd Jt. Civil Judge, Senior Division, Osmanabad, in L.A.R. No.307/2016, and to direct the learned Trial Court to decide the application afresh.

7. In view thereof, the Writ Petition is partly allowed. The order dated

19.12.2019 passed by learned 3rd Jt. Civil Judge, Senior Division, Osmanabad, in L.A.R. No.307/2016 is quashed and set aside.

8. The learned Trial Court shall decide the application afresh and pass an order on the said application within a period of four (4) weeks from today.

[SIDDHESHWAR S. THOMBRE]
JUDGE

Pooja Kale/