



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4067 OF 2024

Bansi s/o. Tatyaram Patole
Age: 65 years, Occ: Agri.,
Residing at Lohgaon,
Tq. Newasa, Dist: Ahmednagar

... PETITIONER

...VERSUS...

1. Prabhudhar Bhimraj Patole
Age: 45 years, Occu: Agri,
Residing at Bhanashivara,
Tal: Newasa, District: Ahmednagar
2. Eknath Vitthal Patole
Age: 75 years, Occu: Agri.
Residing at: Lohgaon,
Tal. Newasa, Dist. Ahmednagar
3. Arun Jagannath Patole
Age: 47 years, Occu.: Agri.
R/o. Lohgaon,
Tal. Newasa, Dist. Ahmednagar
4. Tarabai Jagannath Patole
Age: 65 years, Occu.: Agri.
Residing at: Lohgaon,
Tal. Nevasa, Dist. Ahmednagar.
5. Raju s/o. Bhimraj Patole
Age: 50 years, Occu: Agri.
6. Vijay Bhimraj Patole
Age: 46 years, Occu: Agri.
7. Sunil Bhimraj Patole
Age: 41 years, Occu.: Agri.
All 5 to 7 are R/o. Bhosari,
Sadgurunagar, Pune - Nasik Highway,
Pune.
8. Baby Sunil Bhakre
Age: 48 years, Occu.: Agri.
R/o. MIDC Nagapur,
Ahmednagar-4141119

9. Shobha Pravin Bhakre
Age: 38 years, Occu.: Agri.
R/o. Bhosari, Sadgurunagar,
Pune Nashik Highway, Pune 411039.
10. Ramchandra Rabhaji Patole,
Age: 65 years, Occu.: Agri.
11. Machindra Rabhaji Patole.
Age: 60 years, Occu.: Agri.
12. Sopan Rabhaji Patole,
Age: 58 years, Occu.: Agri.
All 10 to 12 R/o. Lohgaon,
Tal. Nevasa, Dist. Ahmednagar.
13. Harnabai Gajanan Shirsat,
Age: 55 years, Occu.: Agri.
Residing at Pimpri, Pune.
14. Janabai Babasaheb Shejhwale,
Age: 53 years, Occu.: Agri.
R/o. Kondhavad, Tq. Rahuri,
Dist. Ahmednagar- 413705.
15. Sharada Popat Bhingardive,
Age: 45 years, Occu.: Agri.
Residing at Shiral, Chinchodi,
Tq. Pathardi, Dis. Ahmednagar
16. Muktabai Balaji @ Balasaheb Pawar,
Age: 50 years, Occu.: Agri.
R/o. Wakodi, Tq. & Dist. Ahmednagar
17. Sanjay Murlidhar Patole
Age: 55 years, Occu.: Agri.
18. Nandu Murlidhar Patole
Age: 53 years, Occu.: Agri.
19. Prakash Murlidhar Patole
Age: 47 years, Occu.: Agri.
20. Saraswati Murlidhar Patole
Age: 70 years, Occu.: Agri.

All 17 to 20 are R/o. Lohgaon,
Tq. Nevasa, Dist. Ahmednagar.

21. Agnesh Devidas Kasbe
Age: 45 years, Occu.: Agri.
R/o. Thergaon, Tq. Mawal,
Dist. Pune 411033.
22. Mangal Raju Pandit
Age: 42 years Orchi Arti
R/o. Deolali, Tq. Rahuri,
Dist. Ahmednagar
23. Shantabai Eknath Gaikwad
Age: 45 years, Occu.: Agri.
Residing at: Dehare,
Tq. & Dist Ahmednagar.
24. Sindhu Tatyaram Patole
Age: 63 years, Occu.: Agri.
25. Lata Charles Mirpagar
Age: 58 years, Occu.: Agri.
R/o. Khandobanagar, Shegaon,
Dist: Shegaon- 414502.
26. Kanta Baburao Pawar
Age: 56 years, Occu.: Agri.
R/o. Donbosco, Savedi,
Dist. Ahmednagar- 414003.
27. Meena Arun Bhakre
Age: 54 years, Occu.: Agri.
R/o. Nagapur, Ahmednagar-414111
28. Pushpa Andres Gaikwad
Age: 52 years, Occu.: Agri.
R/o. Nashik Jail Road,
Ambedkarnagar, Dist. Nashik- 422101.
29. Martha Suresh Suryanarayan,
Age: 50 years, Occu.: Agri.
R/o. Bohelgaon, Ahmednagar- 414111
30. Bhaudas Tatyaram Patole
Age: 46 years, Occu.: Agri.
R/o. Lohgaon, Tq. Newasa, Dist. Ahmednagar
31. Chandrabhaga Tatyaram Patole
Age: 75 years, Occu.: Agri.
Residing at: Bhosari, Sadgurunagar,
Pune Nashik Highway,

32. Anusayabai Bhimraj Patole
(Since deceased, through her heirs)

32-A] Prabhudhar Bhimraj Patole
Age: 45 years, Occu.: Agri.,
R/o. Bhanasahivara,
Tq. Newasa, Dist. Ahmednagar

32-B] Raju Bhimraj Patole
Age: 50 years, Occu.: Agri.

32-C] Vijay Bhimraj Patole
Age: 46 years, Occu.: Agri.

32-D] Sunil Bhimraj Patole
Age: 41 years, Occu.: Agri.

All are R/o. Sadgurunagar, Bhosari, Pune

32-E] Baby Sunil Bhakre
Age: 48 years, Occu.: Agri.
R/o. MIDC Nagapur,
Dist. Ahmednagar- 414111

32-F] Shobha Pravin Bhakre
Age: 38 years, Occu.: Agri.
R/o. Sadgurunar, Bhosari, Pune

...RESPONDENTS

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- Adv. S. C. Wakankar a/w Mr. R. H. Wagh, Advocate for the Petitioner
 - Mr. A. S. Wakoke, Advocate for Respondent Nos. 10 to 14, 15, 22, 24 to 29
 - Mr. P. V. haudhari, Advocate for Respondent Nos. 1 to 9 and 23
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CORAM : ROHIT W. JOSHI, J.

DATE : JULY 24, 2025

ORAL JUDGMENT :

1. The present petition is filed by defendant no. 19 in RCS No. 368 of 2018 challenging the order passed by the learned Trial Court allowing application filed by the defendant nos. 1, 15, 17 and 27 to 31 for transposition of their names as plaintiffs in the said civil suit.

2. The learned counsel for the petitioner has raised contention that the learned Trial Court has erred in allowing the said application inasmuch as the application was filed under Order I Rule 10 of Code of Civil Procedure (for short, “CPC”), which is not attracted, the defendants did not provide any cogent reason for seeking transposition and lastly that transposition of a defendant as a plaintiff can be allowed only in case, where the contingency provided under Order XXIII Rule 1A is attracted namely that the suit is likely to be withdrawn by the original plaintiff.

3. The suit is a suit for partition and separate possession. In such a suit the plaintiffs as well as the defendants are entitled to claim their respective shares in the suit property. In that sense, every party is a plaintiff and every party is a defendant in a suit for possession.

4. The power to order transposition flows from Order I Rule 10 of CPC as can be seen Order XXIII Rule 1 itself, which speaks for transposition under the said provision. Order XIII Rule 1A speaks of a peculiar contingency, where transposition should be allowed. It does not curtail the general power to order transposition, which flows from Order I Rule 10, that apart, even though arrayed as defendants, in law, the defendant nos. 1, 15, 17 and 27 to 31 are also plaintiffs in one sense, as the suit is a suit for partition and separate possession.

5. The learned Counsel for the petitioner also does not dispute the contention in the application that the right claim by the plaintiff and the same defendant is on the same footing.
6. In that view of the matter, no case is made out for interference in the impugned order. The petition is **dismissed** with no order as to costs.
7. Pending civil applications, if any, stand **disposed of**.

[ROHIT W. JOSHI, J.]