

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.11380 OF 2025**

1. M/S. AVI DEVELOPERS
(Registered Partnership Firm)
Having its Registered Office at:
1369, 'A' Ward, Rankala Darshan Apartment,
Tarabai Road, Kolhapur.
2. SHRI. AJAY SHRIKANT KORANE
Age-56 Years, Occupation - Builder,
R/o.: 1335, 'A' Ward, Phulewadi, Kolhapur.
3. SHRI. VIJAY SHRIKANT KORANE
Age-56 Years, Occupation - Builder,
R/o.: 1335, 'A' Ward, Phulewadi, Kolhapur
4. SHRI. VISHAL MADANRAO CHAVAN
Age-55 Years, Occupation – Business,
R/o.: 'A' Ward, Rankala Darshan Apartment,
Tarabai Road, Kolhapur.
5. MRS. ARCHANA VIRENDRA PAWAR
Age-60 Years, Occupation - Contractor,
R/o. Rajarampuri, 8th lane, Kolhapur.
6. SHRI. VIRENDRA SHIVAJIRAO PAWAR
Age-65 Years, Occupation - Doctor,
R/o.: Rajarampuri, 8th lane, Kolhapur

..Petitioners
(Original Applicants)

Versus

1. SHRI. DILIPSINHA DINKARRAO MANDLIK
Age-81 Years, Occupation - Retired,
R/o.: 870 'A', Renukanagar, 'E' Ward,
Kasba Bavda, Kolhapur.
(Orig. Plaintiff No. 1 in Spl. Civil Suit No. 143 of 2007)
2. SHRI. SIDDARTH DILIPSINHA MANDLIK
Age-50 Years, Occupation - Job, Through his
Power of Attorney holder
MRS. MOHINI DILIPSINHA MANDLIK
Age: 75 Years, Occupation - Household,
Both R/o.: 870 'A', Renukanagar, 'E' Ward,
Kasba Bavda, Kolhapur.
(Orig. Plaintiff No.2 in Spl. Civil Suit No.143 of 2007)

3. SHRI. UNMESH YOGIRAJ SAKHRE
R/o.: Plot No. 52, Nivruti Colony, Varna Nagar,
Tal. Panhala, District - Kolhapur
(for himself and also as a legal heir of Respondent No. 4)]
[Since Deceased through his legal heirs]
(Orig. Defendant No. 1 in Spl. Civil Suit No. 143 of 2007)]
4. SHRI. UJJWAL YOGIRAJ SAKHRE
R/o.: Plot No. 52, Nivruti Colony, Varna Nagar,
Tal. Panhala, District - Kolhapur
[Since Deceased through his legal heirs]]
(Orig. Defendant No. 2 in Spl. Civil Suit No. 143 of 2007)]
- 4A. SHRI. RUTURAJ YOGIRAJ SAKHRE
Age-72 Years, Occu. - Agriculturist & Business,
R/o. 12/24, Suyog, Vijapur Road, Solapur - 413 004.
(Orig. Defendant No. 2A in Spl. Civil Suit No. 143 of 2007)]
5. SHRI. HARSHAD YOGIRAJ SAKHRE
Age-47 Years, Occu. - Agriculturist & Business,
R/o.: Suyog 12/24, Netaji Subhashnagar,
Vijapur Road, Solapur.
(for himself and also as a legal heir of Respondent No. 4)
(Orig. Defendant No. 3 in Spl. Civil Suit No. 143 of 2007)
6. SHRI. YOGIRAJ REVANSIDDHAPPA SAKHRE
R/o.: 12/24 Suyog, Vijapur Road, Solapur - 413 004.
[Since Deceased through his legal heirs
Respondent No. 3 to Respondent No. 5]
Orig. Defendant No. 4 in Spl. Civil Suit No. 143 of 2007)]
7. SMT. SONALI SANDIP PATIL
Age-54 Years, Occupation - Household,
R/o.: 5510, Pound Stone Code, Sugar Land, Texas, U.S.A.
(Orig. Defendant No. 5 in Spl. Civil Suit No. 143 of 2007)
8. SMT. ARCHANA INDRAJEET CHAVAN
Age-49 Years, Occupation - Household,
R/o.: C/o. SHRI. INDRAJEET CHAVAN,
Eagal Industrial, Midal East,
L.L.C. Post Box No. 33916, Abu Dhabi, U.A.E.
(Orig. Defendant No. 6 in Spl. Civil Suit No. 143 of 2007)
9. SMT. DEVIKA VISHAL THORAT
Age-47 Years, Occupation - Household, R/o.: 6 K, Diamond
Drive, Rockey Hill, C.T. 06067, USA
(Orig. Defendant No. 7 in Spl. Civil Suit No. 143 of 2007)

10. M/S. AMBEKAR - JOSHI PROMOTERS AND BUILDERS PVT. LTD., PUNE
(A Registered Company)
Having its Registered Office at:
630, Sadashiv Peth, Pune 411 030.
(Orig. Defendant No. 8 in Spl. Civil Suit No. 143 of 2007)
11. SHRI. SHRIPAD KASHINATH AMBEKAR
Age-55 Years, Occupation - Business,
R/o. 'A' 11, Shantidut Society, Parvati, Pune.
(Orig. Defendant No. 9 in Spl. Civil Suit No. 143 of 2007)
12. SMT. VARSHALI SHRIPAD AMBEKAR,
Age 53 Years, Occupation-Business,
R/o. 'A' 11, Shantidut Society, Parvati, Pune,
(Orig. Defendant No.10 in Spl. Civil Suit No. 143 of 2007)

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Mr. Anil Sakhare, Senior Advocate i/by Mr. Abhishek Nandimath,
Advocate for Petitioners.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 20th NOVEMBER, 2025.

FINAL ORDER:-

1. The present petition takes exception to order dated 02.01.2025 passed by Civil Judge Senior Division, Kolhapur below Exhibit-210 in Special Civil Suit No.143/2007.
2. The petitioners contend that respondent nos.1, 2 and 7 to 9 entrusted development of land bearing Survey No.382/1A to respondent no.3. They executed unregistered development agreement and Power of Attorney in his favour. In year 2005, development agreement and Power of Attorney executed in favour of respondent no.2 was canceled. On 25.05.2007, despite cancellation of Power of Attorney, respondent no.3 got it registered. On the basis of Power of Attorney, respondent no.3 fraudulently executed sale deed in favour of

his father and brothers i.e. respondent nos.4 to 6. Eventually, they executed development agreement and Power of Attorney in favour of respondent nos.10 to 12.

3. The respondent nos.1 and 2 filed Special Civil Suit No.143/2007 before Civil Court seeking declaration and cancellation of aforesaid documents. During pendency of said suit, respondent nos.10 to 12 entered into multiple agreements of sale and created third party interest.

4. On 30.04.2008, respondent nos.1, 2 and 7 to 9 executed agreement to sale in favour of petitioners in respect of land Survey Nos.382/1A and 382/3A for total consideration of Rs.1,25,00,000/-. The possession of said land is handed over to petitioners.

5. The petitioners required to file Special Civil Suit No.422/2011 before Civil Judge Senior Division, Kolhapur seeking specific performance of agreement to sale dated 30.04.2008. Since petitioners have acquired right in land Survey Nos.382/1A and 382/3A, petitioners filed application under Order I Rule 10 of Code of Civil Procedure seeking impleadment in Special Civil Suit No.143/2007, but said application was rejected. Even Writ Petition No.7888/2016 against order refusing petitioners' impleadment is dismissed.

6. In this background, petitioners filed second application Exhibit-210 in Special Civil Suit No.143/2007 seeking their impleadment. Even, said application is rejected. Hence, present Writ Petition.

7. Mr. Anil Sakhare, learned Senior Advocate appearing for petitioners would submit that suit property in Special Civil Suit No.143/2007 is subject matter of agreement to sale executed by respondent nos.1, 2 and 7 to 9 in favour of petitioners. The petitioners have been put into possession of land Survey Nos.382/1A and 382/3A in deference to aforesaid agreement. The respondent nos.3 to 6 and 10 to 12 are claiming their rights on same property on the basis of fraudulent development agreement and Power of Attorney, which has been already canceled in year 2005 by respondent nos.1, 2 and 7 to 9. The respondent nos.1 and 2 have filed Special Civil Suit No.143/2007 seeking declaration and cancellation of documents and transaction made by respondent nos.10 to 12. In said suit, evidence is recorded and there is potential collusion amongst respondents. The petitioners' interest is likely to be frustrated. Hence, impleadment of petitioners is necessary.

8. Perusal of record would indicate that petitioners are claiming their rights in suit property on the basis of agreement to sale dated 30.04.2008 executed by respondent nos.1, 2 and 7 to 9. The petitioners have filed Special Civil Suit No.422/2011 before Civil Judge Senior Division, Kolhapur seeking specific performance of agreement dated 30.04.2008. The said suit is pending. It is for petitioners to establish existence of such agreement and entitlement to seek specific performance in that suit. So far as Special Civil Suit No.143/2007 is

concerned, it has been instituted by respondent nos.1 and 2 seeking declaration and cancellation of documents executed by them in favour of respondent nos.3 to 6 and 10 to 12. The respondent nos.1 and 2 are litigating since 2007 in that proceeding. The petitioners claims their potential rights based on subsequent agreement to sale by respondent nos.1 and 2.

9. Previously, petitioners had filed application below Exhibit-107 in Special Civil Suit No.143/2007 seeking their impleadment. The said application was rejected. This Court confirmed said order in Writ Petition No.7888/2016. In this background, petitioners cannot claim fresh right to seek impleadment in Special Civil Suit No.143/2007. It is trite that, principle of *res judicata* would apply even in respect of interlocutory orders passed in same proceeding. The petitioners once suffered order of rejection of prayer for their impleadment, subsequent application cannot be entertained. The Trial Court has rightly applied aforesaid principles of law and refused to entertain petitioners' application.

10. In result, this Court do not find any infirmity or jurisdictional error requiring interference in impugned order in exercise of powers under Article 27 of Constitution of India. Hence, Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE