

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.16531 OF 2023

VAIBHAV
RAMESH
JADHAV

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Date: 2025.11.06
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Prakash Baburao Deshmukh

... Petitioner

V/s.

Ramesh Mahadev Barge & Ors.

... Respondents

Mr. Amarsingh Bhosale i/by Mr. Ajit J. Kenjale and Sai
Rajendra Kadam for the petitioner.

Mr. Vaibhav Gaikwad with Umakant Kadam for the
respondents.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : NOVEMBER 4, 2025

P.C.:

1. Present writ petition takes exception to order dated 1st March 2023 passed below Exhibit 18 by learned District Judge, Satara, in Miscellaneous Civil Appeal No.159 of 2022, whereby petitioner's challenge to order passed below Exhibit 5 by learned Civil Judge, Senior Division, Satara, in Special Civil Suit No.136 of 2021, has been rejected.

2. The petitioner is the plaintiff in Special Civil Suit No.136 of 2021. He instituted suit claiming the relief of partition, separate

possession, declaration that Will in respect of suit Property No.1B is illegal, and perpetual injunction. Learned Trial Court, after considering rival contentions, rejected petitioner's application for temporary injunction. Even appeal filed against said order has been rejected. Both Courts, after considering rival contentions, found that suit property described in Paragraph No.1B of plaint was individual property of Anant, He executed a Will deed in April 1996. Apparently, there were consistent mutation entries in name of Anant in record of rights of suit property, which were never challenged.

3. It appears that the property continued in possession of Rajeshwari, i.e., wife of Anant, after his death, and she entered into a development agreement with defendant No.23. Pursuant to such development agreement, a building has now been constructed over suit property. Both the Courts have prima facie found that Will is genuine. The suit property is in possession of defendant No.21. The challenge to Will has been belatedly raised in present suit. Further, prima facie there is no evidence to show that suit property was purchased in name of Anant from joint corpus.

4. The conclusions drawn by Courts below are based on a appreciation of material on record. The petitioner-plaintiff failed to prima facie show that property in plaint Paragraph No.1B was purchased out of joint family funds in name of Anant. Similarly, the registered Will No.3062 of 1989 dated 13th October 1989, was never questioned until filing of suit. The consequential mutation entries also remained intact.

5. In that view of the matter, there is no material to accept plaintiff's case on the basis of material tendered into service. In result, this Court do not find any reason to cause interference under writ jurisdiction in impugned orders. In result, **writ petition stands rejected.**

6. However, it would be in the interest of the parties, if Trial Court endeavours to decide the suit expeditiously and, in any case, within a period of one year from today.

7. Parties to cooperate with Trial Court for expeditious disposal of the suit.

8. It is needless to state that observations made in this order are based on a prima facie consideration of material, and Trial Court shall not be influenced by the same.

9. Pending interlocutory application(s), if any, stand disposed of.

(S. G. CHAPALGAONKAR, J.)