

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.15697 OF 2024**

Ramchandra Dattatraya Mule,
Age 34 years, Occ. Agriculturist
R/o. Datta Nagar, Modanimb,
Tal. Madha, Solapur

... Petitioner

V/s.

1. Kasturabai Bhagwan Badekar,
through her legal heirs,

1A. Buddha Bhagwat Badekar,
Age: 63 years, Occ. Agriculture,
R/o. Behind cancer hospital, Vani Plot,
Vitbhatti, Barshi,
Tal. Barshi, Dist. Solapur.

1B. Suresh Bhagwat Badekar,
Age: 55 years, Occ. Agriculture,
R/o. Behind cancer hospital,
Vani Plot, Vitbhatti, Barshi,
Tal. Barshi, Dist. Solapur.

2. Bhagwat Manik Jagtap,
Age: 65 years, Occ. Agriculture,
R/o. Dahivali, Tal. Madha,
Dist/Solapur

3. Abhishek Bhagwat Jagtap,
Age: 35 years, Occ. Agriculture,
R/o. Dahivali, Tal. Madha,
Dist. Solapur.

4. Sau. Sharada Chandrahar Kharat,
Through her power attorney holder,
Shri. Chandrahar Govind Kharat,
Age; 74 years, Occ. Agriculture,
R/o. Dahivali, Tal. Madha,
Dist. Solapur.

... Respondent

Adv. Prasad P. Kulkarni a/w. Adv. Nakul Shukla & Tejas Dalvi,

Advocate for petitioner.

Adv. Anvil Kalekar, Advocate for Respondent.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : DECEMBER 9, 2025

P.C.:

1. Petitioner/original plaintiff impugns order dated 22nd January 2024 passed by Civil Judge, Junior Division in Special Civil Suit No. 221 of 2023, whereby application of a third party seeking impleadment as defendant no. 2 has been allowed.
2. Petitioner/original plaintiff filed Special Civil Suit No. 221 of 2023 contending that respondent no. 1 executed an agreement to sell dated 29th October 2018 in his favour, earnest amount of Rs.4,00,000/- was paid, and balance amount of Rs.7,85,000/- was agreed to be paid, pursuant to which he was put in possession of suit property. However, respondent no. 1 refused to execute sale deed. Hence, this writ petition.
3. It is further contention of plaintiff that other defendants obstructed his peaceful possession. Hence, he has filed suit for specific performance and perpetual injunction. Third party filed application below Exhibit-21 seeking impleadment as defendant on ground that suit property was originally owned by Sakharbai,

who sold suit property to Pandharinath. Applicant is daughter of Pandharinath, who executed a will in her favour, and as such she has acquired ownership in property. Petitioner objected aforesaid application relying upon law laid down by Supreme Court in case of *Kasturi vs. Iyyamperumal & Ors.*, reported in (2005) 6 SCC 733, contending that in matter of specific performance of contract, only parties to contract are necessary parties. Trial Court rightly interpreted aforesaid judgment, particularly in light of subsequent law laid down by Supreme Court in case of *Sumtibai & Ors. vs. Paras Finance Co.*, reported in AIR 2010 SC 3109 and *Mankanwar W/o Parasmal Chordia (D) & Ors.*, reported in AIR 2007 SC 3166.

4. It is apparent that third party has made out sufficient case to hold that she has prima facie right in suit property. In such cases, departure from law laid down in *Kasturi* (supra) is approved by Supreme Court.

5. In result, this Court do not find any jurisdictional error in impugned order. Hence, Writ Petition stands rejected.

(S. G. CHAPALGAONKAR, J.)