

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1375 OF 2024
WITH
INTERIM APPLICATION NO. 10287 OF 2025
IN
WRIT PETITION NO. 1375 OF 2024**

Satyavan Murlidhar Dalvi ... Petitioner

Vs.

Datta Vithoba Lokhande And Ors. ... Respondents

Digitally
signed by
MANGALTAI
JAYWANT
JADHAV
Date:
2025.09.08
19:13:30
+0530

Mr. Prafulla B. Shah a/w Gunjan Shah for the Petitioner.

Ms. Leena Patil i/b Smita Mane for Respondent Nos.2, 3, 13,14,
23 and 24.

Mr. Sumit Sonare i/b Aditya Raktade for Respondent Nos.20 and
21.

Mr. Drupad Patil for Respondent Nos.16 to 19.

CORAM : GAURI GODSE, J.

DATED : 2nd SEPTEMBER 2025

ORDER:

1. This petition is filed by plaintiff no.3 to challenge the order rejecting the application under order VI Rule 17 filed by the plaintiffs for amending the plaint for adding subsequent purchasers as party to the suit and add the relevant pleadings. The application for amendment is rejected on the ground of due diligence not shown by the plaintiffs. The trial Court further held that an application for temporary injunction restraining the defendants from creating third party rights was rejected. The trial

Court has also observed that the transactions will be hit by Section 52 of the Transfer of Property Act. Hence, the application for amendment is rejected by the impugned order.

2. Learned counsel for the petitioner submits that to avoid multiplicity of proceedings, it is necessary that the application for amendment is allowed. He submits that the subsequent purchasers during the pendency of the suit would be necessary parties considering that the prayer is for partition and separate possession.

3. I have perused the papers of the petition. The suit is for partition and separate possession. There is no dispute that the order rejecting the application for temporary injunction restraining defendant nos.1 to 19 from creating third party rights was dismissed on 13th October 2016. This order was never challenged by the defendants. Pending the suit an exchange deed dated 8th October 2021 and sale deed dated 11th March 2019 is executed between defendant no.1 and respondent nos.20, 21 and 22 (proposed defendants) in respect of undivided share of defendant no.1. The application for amendment to the plaint and adding the subsequent purchasers as party was made sometime in July 2023.

4. There is also no dispute that the application was filed at the

time of final argument in the suit. The trial Court has therefore rightly rejected the application on the ground of due diligence. The trial Court has further rightly observed that the transactions would be hit by the provisions of Section 52 of the Transfer of Property Act and the result of the suit would be binding upon the subsequent purchasers. Hence, I do not see any prejudice to the plaintiffs in view of the impugned order. I do not find any illegality or perversity in the impugned order. This is not a case to exercise discretionary jurisdiction under Article 227 of the Constitution of India to interfere with the impugned order.

5. The Writ Petition is, therefore, dismissed.

6. In view of the disposal of the petition, pending application is disposed of as infructuous.

7. Learned counsel for the petitioner seeks extension of interim relief for four weeks.

8. This petition is filed only by plaintiff no.3. The suit is for partition and separate possession filed in the year 2013. However, considering that the interim relief is operating in this petition since 5th February 2024, the same is extended for four weeks from today.

(GAURI GODSE, J.)