



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 462 OF 2025

MAHADEO S/O BHAGAWAN GANDHARE

Vrs.

RAJU S/O BHAIYAJI ZADE AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P. K. Bezalwar, Advocate h/f Ms. Anuprita Mishrikotkar,
Advocate for petitioner.

CORAM: ANIL L. PANSARE, J.

DATE : 20/02/2025.

1. Heard.
2. The petitioner – original defendant is aggrieved by the order dated 16/10/2023 passed by the Trial Court rejecting the request made by the petitioner to place on record the certified copy of the Partition Deed dated 10/01/1979.
3. The counsel for the petitioner submits that the respondents – original plaintiffs have filed suit for partition and separate possession. The petitioner opposed the suit by filing written statement and made categorical averment that the suit property has already been partitioned and further that the parties are cultivating the land according to shares allotted in the partition. What is missing is only the date of partition. Despite such status, the Court below has rejected the application on the count that the petitioner has earlier filed carbon copy of the Partition Deed with the permission to lead secondary evidence, which was rejected by the Court on the count that the petitioner could have obtained the certified copy of Partition Deed.

4. In view of such order, the petitioner obtained certified copy and revived his request to permit him to place on record the certified copy of Partition Deed with request to permit him to lead secondary evidence.

5. The contention is that despite averments in the written statement as regards partition, the Trial Court has held that there are no pleadings regarding the said document. The order is thus contrary to pleadings in the written statement.

6. Issue notice to the respondents, returnable on 13/03/2025.

7. Issue notice to the respondents on interim relief also.

[ANIL L. PANSARE, J.]

Choulwar