

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4428 OF 2026

Sushilkumar s/o Parasmal Kucheriya,
Age – 52 years, Occup. : Agriculture,
R/o : Subhash Road, Parbhani,
Tq. and Dist. Parbhani.

..Petitioner

VERSUS

1. Vijaykumar s/o Basantilal Kucheriya,
Age – 72 years, Occup. : Business,
R/o : Sardar Patel Road, Parbhani,
Tq. and Dist. Parbhani.
2. Anilkumar s/o Basantilal Kucheriya,
Age : 62 years, Occup. : Business,
R/o : Sardar Patel Road, Parbhani,
Tq. and Dist. Parbhani.

..Respondents

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Advocate for the Petitioner : Mr. P.N. Sonpethkar

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : APRIL 22, 2026

JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of parties.
2. Present petition takes exception to order dated 18.08.2025 passed below Exhibit-58 by District Judge-1, Parbhani in Civil M.A. No.92 of 2022. The petitioner further seeks direction to decide application Exhibit-58 on merit after giving opportunity of hearing to both parties.
3. In nutshell, facts giving rise to present petition can be summarized as under :

Regular Civil Suit No.250 of 2015 was instituted by respondents seeking decree of perpetual injunction in respect of property Gat No.84 situated at Village Mirzapur, Taluka and District Parbhani. It was contention of respondents/plaintiffs that petitioner is their nephew. The land Gat No.84 is their ancestral property. It was mutated in name of their brother i.e. Paras s/o Basantlal. He partitioned land amongst five brothers (including plaintiffs) and mother Tarabai. The plaintiffs received share of 2 H 6 R land in partition. The petitioner/defendant filed written statement and refuted claim. The Trial Court dismissed suit vide judgment and decree dated 10.02.2020. Aggrieved plaintiffs filed Regular Civil Appeal No.29 of 2020 before District Judge-3, Parbhani assailing judgment and decree of Trial Court. The petitioner filed an application below Exhibit-12 in Regular Civil Appeal No.29 of 2020 seeking injunction against plaintiffs from alienating suit property from Gat No.84. On 14.07.2022, Appellate Court was pleased to allow application to restrain plaintiffs from alienating suit property or create third party interest in any manner till disposal of appeal.

On 05.08.2022, petitioner filed Civil M.A. No.92 of 2022 alleging breach of injunction and for action under Order 39 Rule 2A r/w Section 151 of Civil Procedure Code against respondents, as they transferred suit property under four different sale deeds dated 18.07.2022 and 19.07.2022. Learned District Judge allowed

application holding respondents/plaintiffs guilty for breach of injunction order and directed them to be detained in civil prison for a period of one month from date of their arrest. The respondents filed Appeal From Order No.17 of 2025 before this Court challenging order of civil prison before this Court. In aforesaid factual backdrop, petitioner filed an application below Exhibit-58 in disposed Civil M.A. No.92 of 2022 before District Judge at Parbhani for issuance of notice to purchasers, as they are also guilty for breach of injunction order. Learned District Judge rejected said application as issue pertaining to breach of injunction was subjudice before this Court in Appeal From Order No.17 of 2025.

4. Mr. Sonpethkar, learned advocate appearing for petitioner submits that this Court has not stayed District Court's order dated 03.04.2025 by which plaintiffs were held guilty for breach of injunction order. Mere pendency of appeal could not have been taken as impediment for issuing notice to purchasers who were equally guilty of breach of injunction order. Mr. Sonpethkar placed his reliance on observations of Hon'ble Supreme Court in case of ***Israr Ahmad Khan Vs. Amarnath Prasad and Ors in Contempt Petition (Civil) No.5/2026 decided on 24.02.2026***, to contend that third party who were not originally impleaded in main proceedings can be held liable for contempt if they have knowledge of Court's order and they willfully disobeyed the order. He would also place his reliance on

observations of Andhra Pradesh High Court in case of ***Thiruvalkani K. Nagraj Vs. Thiruvalkani Sarojamma and another*** reported in ***2002 (6) ALT 429***, to contend that any act done in breach of directions given by Court is punishable under Order 39 Rule 2A of Civil Procedure Code.

5. Having considered submissions advanced by learned advocate appearing for petitioner, two important supervening events needs to be considered. Firstly, Regular Civil Appeal No.29 of 2020 filed by respondents has been dismissed by judgment and order dated 29.01.2024. Secondly, order dated 03.04.2025 passed by District Judge in Civil M.A. No.92 of 2022 awarding civil prison imprisonment against respondents has been quashed and set aside by this Court vide judgment and order dated 24.12.2025 passed in Appeal From Order No.17 of 2025.

6. The impugned order is passed on application Exhibit-58 filed by petitioner seeking issuance of notice to third party purchasers as per conviction order dated 03.04.2025 passed below Exhibit-42. Perusal of order of this Court dated 24.12.2025 passed in Appeal From Order No.17 of 2025 shows that this Court observed that there was no willful disobedience on part of respondents and, therefore, they cannot be held guilty under Order 39 Rule 2A of Civil Procedure Code. Once this Court found that respondent nos.1 and 2 who were party to injunction order were not guilty of willful disobedience, there is no purpose in issuing notice to purchasers particularly in absence of

material that they had knowledge of injunction order. This Court has further observed that alienation created by respondents would hit by Section 52 of Transfer of Property Act and no prejudice would be caused to petitioner. In light of aforesaid factual backdrop, although there cannot be dispute as to exposition of law laid down by Hon'ble Supreme Court in case of *Israr Ahmad Khan (Supra)* and High Court of Andhra Pradesh in case of *Thiruvalkani K. Nagraj (Supra)*, no fault can be found in impugned order of learned District Judge thereby refusing to issue notice to purchasers.

7. In result, writ petition sans merit, hence, dismissed.

8. Rule is discharged.

(S.G. CHAPALGAONKAR, J.)