



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.14484 OF 2025**

Subhadrabai w/o Digambar Giri,  
Age: 38 years, Occu: Service,  
R/o. Kupti, Tq. Umarkhed,  
Dist. Yavatmal.

..Petitioner  
(Orig. J.D. No.6)

Versus

1. Niranjan s/o Santosh Bharati,  
Age- 57 years, Occupation-Service & Agril,  
R/o. Sugaon, Tq. Degloor,  
Dist. Nanded.
2. Awadhut s/o. Santosh Bharti,  
Age- 52 years, Occupation- Agriculture,  
R/o. Sugaon, Tq. Degloor,  
Dist. Nanded.
3. Kondabai w/o. Santosh Bharati,  
Age- 72 years, Occupation-Household,  
R/o. Sugaon, Tq. Degloor,  
Dist. Nanded.
4. Santosh s/o Ganesh Bharti,  
Age- 76 years, Occupation-Agriculture,  
R/o. Sugaon, Tq. Degloor,  
Dist. Nanded.
5. Mankarnabai w/o Santosh Bharti,  
Age- 67 years, Occupation-Household,  
R/o. Sugaon, Tq. Degloor,  
Dist. Nanded.
6. Shivaji s/o Gangaram Bamne,  
Age- 54 years, Occupation-Agriculture,  
R/o. Ibrahimpur, Tq. Degloor  
Dist. Nanded.
7. Avinash s/o Santosh Bhati,  
Age- 47 years, Occupation-Nil,  
R/o. Sugaon, Tq. Degloor,  
Dist. Nanded.
8. Anusaya d/. Santosh Bharti,  
Age- 35 years, Occupation-Household,  
R/o. Sugaon, Tq. Degloor,  
Dist. Nanded.

..Respondents

(Respondent no.1 to 3 are orig. D.H.  
and Respondent No.4 to 8 are orig. J.D. No.1 to 5)

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Mr. S. P. Katneshwarkar h/f Mr. S. B. Ghatol Patil, Advocate for  
Petitioner.

Mr. V. V. Patil, Advocate for Respondent Nos.1 to 3.

Mr. S. S. Waghmare, Advocate for Respondent Nos.4 to 8.

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**CORAM : S. G. CHAPALGAONKAR, J.**  
**DATED : 18<sup>th</sup> MARCH, 2026.**

**JUDGMENT:-**

1. Rule. Rule made returnable forthwith. By consent of  
parties, matter is taken up for final hearing at the admission stage.

2. The present writ petition takes exception to order dated  
24.09.2025 passed below Exhibit-21 by Civil Judge Junior Division,  
Degloor in Regular Darkhast No.2/2024, whereby petitioner's  
objection to execution of decree has been rejected.

3. The respondent nos.1 and 2 herein had instituted Special  
Civil Suit No.41/2006 for partition and separate possession of suit  
property. The petitioner was not party to said suit. However, her  
father, mother and brothers were party to suit. Admittedly,  
respondent no.3-Kondabai is first wife of respondent no.4-Santosh.  
The respondent no.5 is his second wife. The petitioner, respondent  
nos.7 and 8 are born to second wife Mankarnabai during  
subsistence of first marriage of Santosh with Kondabai. During  
pendency of partition suit, petitioner had filed her intervention  
application as party in suit. However, same was rejected. She  
challenged said order before this Court in Writ Petition, which was

dismissed and finally order is confirmed by Supreme Court in Civil Appeal No.4398/2019.

4. The Civil Judge, Junior Division, Degloor decreed suit for partition and separate possession vide judgment and order dated 30.06.2014 and that plaintiffs, defendant no.1 i.e. Kondabai and Santosh were held entitled for 1/4<sup>th</sup> share each in suit property. Eventually, Regular Darkhast No.2/2024 is filed by plaintiffs/deed holders for execution of decree. At this stage, petitioner filed application below Exhibit-21 contending that in view of law laid down by Supreme Court in case of ***Revansiddappa and Ors Vs. Mallikarjun and Ors.***<sup>1</sup>, petitioner has right in suit property. The decree passed in suit without adding her as party is not executable. However, Executing Court rejected petitioner's objection.

5. Mr. Katneshwarkar, learned Advocate appearing for petitioner submits that there can be multiple preliminary decree. In view of law laid down in case of ***Revansiddappa and Ors*** (supra), petitioner who is daughter born from second wife of Santosh would be entitled for share in suit property. Therefore, augmentation of shares was necessary, however, Executing Court erroneously rejected petitioner's objection to the executability of decree. Mr. Katneshwarkar would submit that in Civil Appeal

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<sup>1</sup> (2023) 10 SCC 1.

No.4398/2019 filed by petitioner, remedy of seeking another preliminary decree in terms of judgment in case of ***Revansiddappa and Ors*** (supra) was kept open by Supreme Court. The Executing Court completely missed to consider aforesaid legal and factual aspect and erroneously rejected petitioner's objection to the executability of decree.

6. Having considered submissions advanced by learned Advocate appearing for petitioner, it can be observed that petitioner is raising her claim in suit property being daughter of Santosh born from second wife Mankarnabai. The decree in Special Civil Suit No.41/2006 decides shares between petitioner's father Santosh, his first wife Kondabai and two sons Niranjan and Awadhut. Each of them is granted 1/4<sup>th</sup> share in suit property. Mankarnabai i.e. second wife, her son and daughter are not given any share in suit property. Even applying ratio laid down by Supreme Court in case of ***Revansiddappa and Ors*** (supra), progeny born from second wife of Santosh would be entitled to claim right in share of Santosh. The decree in Special Civil Suit No.41/2006 declares share of Santosh to the extent of 1/4<sup>th</sup> in suit property. The first wife Kondabai and her sons are held entitled for 1/4<sup>th</sup> share each alongwith Santosh. The execution proceeding is initiated by them in Regular Darkhast No.2/2024 for partition of their 1/4<sup>th</sup> share each. Eventually, petitioner could not have any

objection for execution of decree. She may have right in share allotted to Santosh, but she cannot raise claim for partition during his lifetime in light of law laid down in case of ***Revansiddappa and Ors*** (supra). Further such share would not be available to her during lifetime of Santosh. Pertinently, petitioner's application for impleadment as party in suit was rejected by Trial Court and said order was confirmed upto Supreme Court.

7. In result, this Court do not find any reason to entertain present Writ Petition. Writ Petition stands dismissed.

8. Rule stands discharged.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**