



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1158 OF 2026

**DADABHAU SHANKAR SHERMALE
VERSUS
BAPUSAHEB UMAJI SHERMALE AND OTHERS**

...
Mr. Satyajeet S. Dixit, Advocate for the Petitioner.

...
**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 09th FEBRUARY, 2026.**

P.C.:-

1. The present Writ Petition takes exception to order dated 19.11.2025 passed below Exhibit-71 in Decree Application No.4/2016 by Civil Judge Junior Division, Sangamner, District Ahmednagar.
2. The petitioner filed application below Exhibit-71 under Order I Rule 8-A of Code of Civil Procedure seeking impleadment in Decree Application No.4/2016, which is filed by respondents for execution of preliminary decree passed in Regular Civil Suit No.117/2006. The preliminary decree has been passed granting relief of partition and separate possession of house properties.
3. In light of aforesaid facts, it is contention of petitioner that his house property is part and parcel of City Survey Nos.82 and 83. The suit has been decided behind his back. His right in suit property is likely to be infringed in execution of decree. Perusal of operative part of decree in Regular Civil Suit No.117/2006 shows

that plaintiffs and defendants therein are held entitled for specific shares in suit properties on partition i.e. Grampanchayat House No.113 in City Survey No.58 alongwith other house properties, in City Survey Nos.55, 56, 57, 89, 90, 91 and 117. According to petitioner, his house property forms part of City Survey Nos.82 and 83 and by way of counter claim City Survey Nos.82 and 83 was also considered as suit properties.

4. The Executing Court while dealing with petitioner's application Exhibit-71 observed that petitioner could not place on record any material depicting location of his house property in City Survey Nos.82 and 83. In light of aforesaid observations, Executing Court refused to entertain petitioner's application for impleadment in execution application. No jurisdictional error can be found in impugned order as petitioner has no right to be impleaded under Order I Rule 8-A of Code of Civil Procedure.

5. Pertinently, petitioner has already filed Regular Civil Suit No.695/2012 asserting his right in respect of house properties claiming it to be part of City Survey Nos.82 and 83, particularly in relation to Grampanchayat House No.110-A admeasuring 108 ft. x 56 ft.. The petitioner may establish his independent right in that suit, pending since before passing of decree in present suit. If so advised, petitioner may file appropriate application/objection to execution of decree, if his possession is disturbed.

6. In that view of matter, no case is made out to cause interference in impugned order, as petitioner could not make out right of impleadment under Order I Rule 8-A of Code of Civil Procedure. Writ Petition stands dismissed with liberty in favour of petitioner to prosecute suit as per law.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/February-2026