



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2597 OF 2026

TUKARAM SAMPAT AGLAVE DIED THR. LRS ANANDABAI
GAJIDHAR AGLAVE
VERSUS
SAYABAI NAMDEO AGLAVE AND ORS.

Mr. B. N. Patil h/f Mr. M. L. Dharashive, Advocate for the
Petitioner.

Mr. S. N. Kendre, AGP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 10th MARCH, 2026.

P.C.:-

1. The learned Advocate appearing for petitioner submits that he has raised specific objection before Tahsildar, Bhokardan in proceeding for effecting partition in pursuance of decree passed by Civil Court. However, without deciding such objection, now by impugned order, Tahsildar has prepared chart for distribution of property.

2. It is well settled by Hon'ble Supreme Court in case of *Khemchand Shankar Choudhari and Another Vs. Vishnu Hari Patil and Others*¹ that purchaser of property, which is subject matter of partition can claim equitable right. The following observations of Supreme Court needs to be taken into consideration in such cases:-

“A transferee from a party of a property which is the subject matter of partition can exercise all the rights of the transferor. There is no dispute that a party can ask for an equitable

¹ (1983) 1 SCC 18.

partition. A transferee from him, therefore, can also do so. Such a construction of section 54 of the Code of Civil Procedure advances the cause of justice. Otherwise in every case where a party dies, or where a party is adjudicated as an insolvent or where he transfers some interest in the suit property pendente lite the matter has got to be referred back to the civil court even though there may be no dispute about the succession, devolution or transfer of interest. In any such case where there is no dispute if the Collector makes an equitable partition taking into consideration the interests of all concerned including those on whom any interest in the subject matter has devolved, he would neither be violating the decree nor transgressing any law.”

3. In light of law laid down by Supreme Court, respondents are under obligation to consider objection of petitioner. Accordingly, Writ Petitions stands **disposed of** with direction to Tahsildar to consider and decide objection of petitioner in light of law laid down by Supreme Court in case of ***Khemchand Shankar Choudhari and Another*** (supra) and then pass further order.

(S. G. CHAPALGAONKAR)
JUDGE