



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 3604 OF 2026**

AJIT BHAGCHAND SHINDE
VERSUS
ANNASAHEB DAULAT MURKUTE AND ORS.

...
Mr. Shubham Dattatrya Jayabhar, Advocate for the Petitioner.
Mr. S. R. Sapkal, Advocate for Respondent No.1.

...
CORAM : S. G. CHAPALGAONKAR, J.
DATED : 21st APRIL, 2026.

P.C.:-

1. The present Writ Petition takes exception to order dated 03.11.2025 passed by District Judge, Newasa in Miscellaneous Civil Appeal No.14/2024, thereby upholding order dated 20.04.2024 passed below Exhibit-50 by Civil Judge Junior Division, Newasa in Regular Civil Suit No.346/2021.

2. The respondent no.1 instituted Regular Civil Suit No.346/2021 seeking relief of partition and separate possession in respect of suit property contending that land bearing Gut No.163/2 situated at village Kukana, Taluka Newasa is jointly owned by him and respondent nos.2 to 4. There was no partition of property amongst them. However, respondent nos.2 to 4 sold property in favour of petitioner during pendency of suit and, therefore, he filed an application below Exhibit-50 seeking relief of temporary injunction. The Trial Court as well as Appellate Court after considering evidence on record found that suit land was shown jointly in name of respondent no.1/plaintiff and respondent nos.2 to

4/defendants. Thereafter, respondent nos.2 to 4 executed sale deed during pendency of suit in favour of petitioner. The petitioner is trying to disturb possession of respondent no.1 and accordingly passed order granting temporary injunction against petitioner.

3. On *prima facie* consideration of factual aspect of matter and material tendered into service, it is discernible that suit property is jointly owned by plaintiff and defendant nos.1 to 3. While plaintiff asserted his claim for partition and separate possession against defendant nos.1 to 3, sale deed dated 27.12.2023 has been executed in favour of petitioner in respect of part of land to the extent of 20.66 R. There is nothing on record to show that defendant nos.1 to 3 were in separate possession of property or they were in position to alienate separate share in favour of third person.

4. It is trite that third party purchaser of an undivided share is not entitled to possession. His only right is to sue for partition of property and seek allotment of his share upon partition. In that view of matter, Courts below have rightly taken view that petitioner/defendant no.4 has no right to interfere in joint possession of plaintiff and defendant nos.1 to 3.

5. In that view of matter, this Court do not find any reason to interfere in well reasoned order passed by Courts below or exercise

Writ jurisdiction under Article 227 of Constitution of India. Hence, Writ Petition stands disposed of.

6. Needless to state here that, in facts of case, Trial Court shall endeavour to decide suit expeditiously.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/April-2026