



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CONT. PETITION NO. 71 OF 2026
IN WP/6075/2023

Vimalbai Rajaram More and others

VERSUS

Pralhad Dadarao Kshirsagar Through Its Special Power Of Attorney
Holder Purshottam Pralhad Kshirsagar and others

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Mr. Amol Narhari Kakade, Advocate for the Petitioners

CORAM : Y. G. KHOBRAGADE, J.

Dated : 11th March, 2026

PER COURT :-

1. Heard learned counsel for the petitioners at length.
2. By the present petition under Section 12 of the Contempt of Courts Act, the petitioners put-forth prayer clauses (B) and (C) as under:

"(B) That, the respondent nos.1 to 4 may kindly be punished for willful disobedience of the order passed by this Hon'ble High Court in Writ Petition No. 6075 of 2023 dated 10.05.2024 as per the Contempt of Courts Act.

(C) That, the order passed by the respondent no.2 in Appeal No. 2025/CD/Appeal/CR-36 dated 03.12.2025 may kindly be quashed and set aside with further directions to hand over the possession of the land to the petitioners as per the Court Decree."

3. Admittedly, on 10.05.2024, this Court (Coram: S. G. Mehre, J.) passed judgment and order in Writ Petition No. 6075/2023.

Relevant paragraphs of the said judgment read as under:

"31. The conflict between the two senior lawyers is when the Collector should hear them under Rule 7 of the Rules, 1967. Learned senior counsel for the petitioners submits that after the measurement is done and the partition chart is prepared by the Deputy Superintendent of Land Records ("DSLRL", for short), the Collector or the Officer deputed by him to effect the partition shall hear the respective parties and then proceed to effect the actual partition. Against this, the learned senior counsel for the respondents submits that Rule 7 of the Rules, 1967 provides that after the partition has actually been effected, the officer effecting partition under Section 54 of C.P.C. shall hear the parties and confirm the partition.

32. The regular practice and procedure followed in effecting the partition under Section 85 of the Code, 1966 are after the precept is received, the Authority effecting the partition must get the land measured and the partition sheet prepared by the Land Records office. The purpose behind it is that the Authority effecting the actual partition should know whether the land is divisible and does not violate the provisions of the Fragmentation Act. Rule 5 of the Rules, 1967 provides that so far as practicable, whole Survey Numbers or Sub-divisions of Survey Numbers shall be allotted and recourse for further division as far as possible be allotted to each party, and care should be taken to ensure that the productivity of area allotted to each party is in proportion to his share in the holding. In simple words, the Collector has to take care of and ensure that there is equal partition based on the productivity of the land. Such care is to be taken because the quality and fertility of the lands to be partitioned may vary. The fertile land, which is less in area, may be equal to the larger area with no good productivity. These activities are not done before the Superintendent of Land Records prepares the partition chart and measurement of the land. He just proposes the possible partition of the lands not violating the provisions of the Fragmentation Act.

33. In Rule 7 of the Rules 1967, the term 'after the partition is complete' is interpreted by the learned counsel for the petitioners that the partition is completed just after the measurement of the land and preparation of the partition chart and not before the actual partition. As against this, the learned senior counsel for respondents interpreted that it is completed after the actual partition is effected.

34. The term 'after the partition is completed' is to be read in the context of the procedure laid down in the Rules 1967 and Section 54 of the C.P.C. After the precept is received by the Collector, he has to hear the parties as provided under sub-section (3) of Section 85 of the Code, 1966. Then, he has to proceed to effect the partition as contemplated under Rule 5 of the Rules 1967. Then, he has to apportion the assessment. In the meantime, he has to ensure that the land proposed for the partition can be partitioned without violating the provisions of the Fragmentation Act and that its partition is possible. These exercises are done to know himself and the parties concerned that the proposed shares by the Land Records office are suited to all and there is no inequitable partition. In this context, the term 'after the partition is completed' means after the process of measurement and preparation of the partition chart, and it does not mean after the actual partition is effected. For example, if the actual partition is effected, what remains thereafter for hearing, modification, and amendment of the partition or confirmation? Obviously, nothing would remain because the respective shareholders are given separate possession. Once the partition is effected, a further process is to prepare a revenue record. Reading the said term in the context mentioned above, the Court is of the view that the term 'after the partition is completed' means after the land is measured and the partition chart is prepared by the Office of the Land Records and submitted to the Authority effecting the partition. Completing partition, as provided in Rule 7 of the Rule, is the pre-stage of giving the effect to the partition decree by actual separation and handing over possession of the share by metes and bounds.

35. In view of the above discussion, this Court is of the view that the Tahsildar has erred in not granting a hearing to the respective parties as provided under Rule 7 of the Rules, 1967, before proceeding to effect the partition and hand over the possession by metes and bounds. Therefore, his letter dated 02.06.2023, addressed to the Circle Officer to effect the partition, is bad in law. It is, thus, liable to be quashed and set aside.

36. The parties have been litigating since 1992. Therefore, to give an end to the proceeding between parties, the petitioners should appear before the Tahsildar to raise the objections to the partition chart prepared by the Deputy Superintendent of Land Records with an undertaking that after the Tahsildar decides the objections and passes an order either amending or confirming the partition, they would hand over the possession of the land allotted to the share of

respondents No.6A to 6C, within two weeks from the order of the Tahsildar passed on the objections.

37. As a result, the petition is allowed, and the letter of Tahsildar, dated 02.06.2023 stands quashed and set aside.

38. All the parties concerned should appear before the Tahsildar on 30.05.2024.

39. The petitioners shall submit their objections to the partition chart prepared by the Deputy Superintendent of Land Records within two weeks from their appearance before the Tahsildar with an undertaking as mentioned above.

40. The Tahsildar shall decide the objections within two months thereafter by giving a hearing to all parties concerned.

41. It is also made clear that any third party claims the right acquired from the parties to the suit during the suit was pending or after the decree is passed should be treated as the decree-holder or the Judgment debtor, and they would be in their shoes having no independent rights.

4. Needless to say that, on plain reading of paragraph no. 34 of the said judgment, the term ‘ after the partition is completed ’ is to be read in the context of the procedure laid down in the Maharashtra Land Revenue (Partition of Holdings) Rules, 1967 (Rules, 1967) and Section 54 of the Civil Procedure Code. After the precept is received by the Collector, he has to hear the parties as provided under sub-section (3) of Section 85 of the Maharashtra Land Revenue Code, 1966 and thereafter the Collector has to proceed to effect the partition and then, to apportion the assessment. It is necessary to ensure that the said partition is partitioned without violating the provisions of the Bombay Prevention of the Fragmentation and Consolidation of Land Holdings

Act, 1947 and that its partition is possible. In Paragraph No. 35 quoted above, it is held that the Tahsildar has erred in not granting a hearing to the respective parties as provided under Rule 7 of the Rules, 1967, before proceeding to effect the partition and hand over the possession by metes and bounds. In paragraph no. 36, it is observed that, the parties have been litigating since 1992 and therefore, to give an end to the proceeding between parties, the petitioners were directed to appear before the Tahsildar for raising objections to the partition chart prepared by the Deputy Superintendent of Land Records with an undertaking that after the Tahsildar decides the objections and passes an order either amending or confirming the partition, they would hand over the possession of the land allotted to the share of respondents No.6A to 6C, within two weeks from the order of the Tahsildar passed on the objections. Ultimately, the order 02.06.2023, passed by the Tahsildar was quashed and set aside and the litigating parties were directed to appear before the Tahsildar on 30.05.2024. It was further directed that the petitioners shall submit their objections to the partition chart prepared by the Deputy Superintendent of Land Records within two weeks from their appearance before the Tahsildar. Thereafter the Tahsildar was duty bound to decide the objection within a period of two months thereof. As per paragraph no. 41 of the said judgment it was made clear that any third party claims, the right acquired from the parties to the suit, during the suit was pending or

after the decree is passed, should be treated as the decree-holder or the Judgment debtor, and they would be in their shoes having no independent rights.

5. It appears from the record that, after the objections raised by the parties, on 24.04.2025, Tahsildar, Beed passed an order and approved the Partition Chart submitted by the Deputy Superintendent of Land Record, Beed in Regular Execution Proceeding No. 41 of 2002 (Krushnabai Vs. Dadarao) and Regular Execution Proceeding No. 127 of 1992. The Tahsildar directed the Circle Officer, Beed to make partition of the land as per the chart and after the measurement of land, give possession of the same to the parties. However, being aggrieved by the said order, the present respondent no.1 filed Appeal before the Sub Divisional Officer, Beed. On 12.09.2025, the learned Sub Divisional Officer, Beed dismissed the said appeal. Being aggrieved by the said order, respondent No.1 approached the Additional Collector by filing appeal no. 2025/CD/Appeal/CR/36. On 03.12.2025, the learned Additional Collector passed an order and set aside the order dated 12.09.2025 passed by the Sub Divisional Officer as well as order dated 24.04.2025 passed by the Tahsildar, Beed and remanded the matter to the Tahsildar, Beed for re-enquiry under Rule 5 of the Rules, 1967, after giving notice of hearing to the concerned parties. So also, the parties to the said appeal were given understanding of lodging

further appeal within a period of 60 days with the Divisional Commissioner, Aurangabad.

6. Needless to say that though the petitioners have contended that, the respondents have not handed over possession of the property, and despite this Court observing that the parties have been litigating since 1992, and referring the petitioners to the Tahsildar in order to bring an end to the dispute, the said proceedings have resulted in filing appeal after appeal. The revenue authorities are passing orders on the objections, and the objectors are challenging those orders by filing appeals/revisions before the competent authorities. Consequently, the proceedings are still pending and the revenue authorities have not yet culminated the same. Therefore, it is contempt of Court.

7. On consideration of the judgment and order dated 10.05.2024, it does not appear that the Collector or the Revenue Authorities were directed to hand over possession without deciding the objections that may be raised by the concerned parties. Per contra, from the observations made in paragraph Nos. 31 to 41 of the said judgment, it prima facie appears that, the parties were permitted to raise objections before the competent authority, which were required to be decided by giving an opportunity of hearing to the parties. Accordingly, the parties to the litigation have already approached the Revenue

Authorities. It is also evident that the Revenue Authorities have promptly decided the objections; however, the aggrieved parties have carried the said orders in appeal before the appellate authority as contemplated under Section 247 of the Maharashtra Land Revenue Code, 1966, read with Schedule E of the Maharashtra Land Revenue Code.

8. In view of the above, I do not find that the petitioners have made out substantial ground to invoke jurisdiction of this Court under Section 12 of the Contempt of Courts Act. Therefore, the Contempt petition deserves to be dismissed and accordingly, it is dismissed.

(Y. G. KHOBRAGADE, J.)

JPChavan