IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12209 OF 2025

Murlidhar Damodar Kadam

VERSUS

Babasaheb Pandurang Kadam Through Legal Heirs
Nanda Babasaheb Kadam And Ors.

...

Mr. Wasim Samlewale i/by Mr.Akil Kupade, Advocate for Petitioner.
Mr. Rugwed R. Kinkar, Advocate for Respondents.

...

CORAM : SACHIN S. DESHMUKH, J.
DATE : 12th MARCH, 2026.

P. C. :

1. The petitioner is the original plaintiff in a suit for specific performance. Initially, the application was presented by the Petitioner below Exhibit-29 was allowed vide order dated 20.02.2018, which reads as under:

> *"1) Application is allowed.*
>
> *2) Plaintiff to keep on record the copies of agreements stated in order dt. 11/03/2014 and are to be verified by Assistant Superintendent of the Court and then such documents be given to plaintiff for paying the deficit stamp duty within two months and again bring them on record."*

2. The said order was not complied within the stipulated period. Hence, the petitioner presented an application seeking permission to comply with the same at a later stage. However, the same was rejected by the trial Court.

3. Preceeded by same, the petitioner preferred successive application before the trial Court and prayed that the earlier orders be set aside and he may be allowed to comply with the same.

4. The trial Court after noting that petitioner despite a considerable time, had failed to comply with its direction and holding that since the impugned order was passed by the same Court, could not exercise appellate powers. Resultantly, the application has been rejected by order dated 04.08.2025 and the same is the order under challenge.

5. In the aforesaid backdrop, learned counsel for the applicant submits that the trial Court has erred while passing the order under challenge. There are no sufficient reasons assigned while not exercising discretion and is in complete violation to principles of natural justice.

6. The learned counsel for the Respondent has supported the impugned order, submitting that the Petitioner has deliberately adopted dilatory tactics with a view to protract and delay the proceedings, and that the order passed in the year 2012 has not been complied with till date. As such the same does not warrant any interference by this Court.

7. The learned Counsel for the Respondent further places heavy reliance on the judgment of this Court in the case of ***Vijaya Vijayrao Khade and Another Versus State of Maharashtra and Others***[1]***,*** more particularly in Paragraph 13 of the said judgment which reads as under :

> *"13. It was further submitted that the Collector as well as the MRT failed to appreciate the scheme under the provisions of the Act of 1961, while refusing even to consider the issues sought to be raised on behalf of the petitioners. It was also submitted that since the proceedings were yet to culminate as per the scheme envisaged under the provisions of the Act of 1961, respondent Nos.5 to 17 before this Court did not have any right to be heard in the matter, which the MRT failed to appreciate while allowing their intervention. The learned counsel for the petitioners placed reliance on the judgments of the Supreme Court in the cases of Satyadhyan Ghosal and others Vs. Smt. Deorajin Debi and another AIR 1960 SC 941; Arjun Singh Vs. Mohindra Kumar and others, AIR 1964 SC 993 and in the case of Vineeta Sharma Vs. Rakesh Sharma (supra) and judgments of this Court in the cases of Ratanlal Kisandas Vs. Bajirao Ganpat Mahalasne and 2 others, 1975 Mh.L.J. 65 and Hanumant Yeshwant Deshmukh and others Vs. State of Maharashtra and others, 1983 Mh.L.J. 38."*

1 2022 SCC OnLine Bom 1141

8. Upon hearing the learned counsel for the Petitioner and the learned Counsel for the Respondent, and upon perusing the material on record, it appears that initially, the request of the Petitioner was acceded to by the Court by allowing the application. However, due to certain contingencies, the petitioner could not comply within the stipulated. The record further reveals that when the petitioner again approached the trial Court, the application of petitioner came to be rejected overlooking the sufficiency of reasons preventing the petitioner.

9. In view of the aforesaid aspects and considering that no prejudice would be caused to the respondent while acceding the request of the Petitioner. As such, I am inclined to exercise discretion in favour of the petitioner and allow the Petition.

10. As far as the Judgment relied upon by the respondent is concerned, considering the distinguished and peculiar facts of the instant case, the same does not lend any support.

11. However, considering the substantial delay caused due to the petitioner, cost deserves to be mulcted and accordingly, costs should be Rs. 25,000/- (Rupees Twenty-Five Thousand Only) to be paid to

the Respondent/ Defendant within a period of four weeks from the date of this order, failing which the order shall stand revived.

12. Accordingly, Writ Petition is allowed and disposed of.

[SACHIN S. DESHMUKH, J.]

SAJAKALI LIYAKAT JAMADAR
Digitally signed by SAJAKALI LIYAKAT JAMADAR
Date: 2026.03.15 17:17:18 +0530