IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3209 OF 2026

Ramchandra Sambhaji Ghule
Age – 54 years, Occ – Business,
R/at – Flat No. 904, Tara Baug,
Empress Court, Behind Sopan Baug,
Pune – 411 001. ...Petitioner

Versus

1. Krushnabai Anandrao Gund
[Since deceased through LRs]

(a) Vasantrao Anandrao Gundpatil
Age – 60 years, Occ – Agriculturist

(b) Jeevan Anandrao Gundpatil
Age – 58 years, Occ – Agriculturist

(c) Pradeep Anandrao Gundpatil
Age – 60 years, Occ – Agriculturist
All R/at – Post Nangaon,
Tal – Daund, Dist – Pune.

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(d) Alka Vilas Morde
Age – 62 years, Occ – Household
R/at – Lenyandri Tower
Sec. 19/A, Power House East,
Nerul, Navi Mumbai.

~~2. Amita Deepak Ghule~~

3. Revati Vaibhav Shete,
R/o. Mankarwada, Narayan Peth,
Pune.

4. Nanadkumar Nivrutti Ghule,
R/o. Gopalpatti, Deepak Nagar,
Manjari Budruk, Tal. Haveli, Dist. Pune

5. Shobha Nandkumar Ghule,

R/o. Gopalpatti, Deepak Nagar,
Manjari Budruk, Tal. Haveli, Dist. Pune.

6. Sharada Chandrakant Shelke,
R/o. 25 K.E. Ward, Flat No.5/6
Ganraj Apartment, Circuit House Road,
Tarabai Park, Kolhapur.

~~7. Shivaji Sakharam Ghule~~

~~8. Vijayamala Shivaji Ghule~~

9. Ajay Shivaji Ghule
R/o. Gopalpatti, Deepak Nagar,
Manjari Budruk, Tal. Haweli, Dist. Pune.

10. Ragini Ajay Ghule,
R/o. Gopalpatti, Deepak Nagar,
Manjari Budruk, Tal. Haweli, Dist. Pune.

11. Abhay Shivaji Ghule,
R/o. Bungalow No. 50, Sadhana Society,
Near Akashwani, Pune – Solapur Road,
Hadapsar, Pune.

12. Deepa Samir Shirole (Ghule)
R/o. 883, Wintergreen Society Building,
2nd Floor, Bhandarkar Road,
Shivaji Nagar, Pune.

13. Jayshree Sambhaji Ghule
R/o. S S Ghule Wines,
Pune Solapur Road, Gadital
Hadapsar, Pune.

14. Sanjay Sambhaji Ghule
R/o. S S Ghule Wines,
Pune Solapur Road, Gadital
Hadapsar, Pune.

15. Kiran Pravin Kate,
R/o. S S Ghule Wines,
Pune Solapur Road, Gadital
Hadapsar, Pune.

16. Mangal Madhukar Kavde,
R/o. S.No. 37, Pushpalaxmi Rose
Nursery, Pune Solapur Road,
Near Manjari Farm, Manjari, Pune.

17. Sushila Umakant Kate,
R/o. S. S. Kate Bungalow,
Near Dapodi Railway Gate,
Dapodi, Pune.

18. Ajit Ramdas Kavde,
R/o. Magarpatta City, Jasmil Society,
A Building, Flat No. 301, Hadapsar,
Pune.

19. Bina Danesh Darwadkar
R/o. C/o. Ajit Ramdas Kavde,
R/o. Magarpatta City, Jasmil Society,
A Building, Flat No. 301, Hadapsar,
Pune.

20. Meena Gulve, ...Respondents
R/o. Magarpatta City, Jasmil Society,
A Building, Flat No. 301, Hadapsar,
Pune.

Mr. Anil Anturkar, Senior Advocate, a/w Mr. Prasad A Kamthe, for the petitioner.

Mr. Vivek Salunke, for Respondent Nos. 13, 14 and 15.

Mr. Yashodeep Deshmukh, a/w Ms. Vaidehi Deshmukh, for Respondent Nos. 1(a) to 1 (d).

CORAM : N. J. JAMADAR, J.
DATE : 13th OCTOBER 2026

JUDGMENT :-

1. Rule.

2. Rule made returnable forthwith and, with the consent of the learned Counsel for the parties, heard finally.

3. This petition under Article 227 of the Constitution of India, calls in question the legality, propriety and correctness of a judgment and order dated 15th July, 2024 passed by the learned District Judge, Pune in Miscellaneous Civil Appeal No. 78/2024 whereby the appeal preferred by the petitioner – the original Defendant No. 14, against an order dated 01st August, 2016 passed by the trial Court on an application for temporary injunction (Exh. 5) in Regular Civil Suit No. 2129/2012, which restrained the defendants therein from creating third party interest in the suit properties and carrying out any construction thereon, came to be dismissed.

4. The suit properties were ancestral properties. The deceased Plaintiff – Krishnabai Anandrao Gund, was the daughter of Sakharam Ghule. After the demise of Sakharam Ghule on 01st February, 1982, the name of the plaintiff came to be mutated to the record of rights of the suit properties

alongwith the defendants. However, it transpired that, in the year 1995, the suit properties were partitioned purportedly under the provisions of Section 85 of the Maharashtra Land Revenue Code, 1966 ("the Code, 1966") before the Tahsildar, excluding the plaintiff therefrom. The plaintiff thus instituted the suit seeking partition and separate possession of her share in the suit properties and the consequential reliefs of injunction.

5. In the said suit, the plaintiff filed an application for temporary injunction as the defendants were alienating portions of the suit properties and developing the same to the prejudice of the rights of the plaintiff.

6. By an order dated 01st August, 2016, the learned Civil Judge was persuaded to allow the application and restrain the defendants from creating third party interest in the suit properties and also carrying out any construction thereon.

7. Being aggrieved, the Defendant No.14 – the petitioner herein, preferred an appeal before the District Court. By the impugned judgment and order, the learned District Judge was persuaded to dismiss the appeal finding no error in the exercise of discretion by the trial Court.

8. Being further aggrieved, the Defendant No.14 has preferred this Writ Petition.

9. An affidavit-in-reply has been filed on behalf of the Respondent Nos. 1(a) to 1(d), the successors-in-interest of the plaintiff.

10. I have heard Mr. Anil Anturkar, the learned Senior Advocate for the petitioner, and Mr. Yashodeep Deshmukh, the learned Counsel for Respondent Nos. 1(a) to 1(d).

11. Mr. Anturkar, the learned Senior Advocate for the petitioner, submitted that, though the character of the suit properties is not much in dispute, nor the relationship between the parties is in contest, yet, the Courts below have committed a grave error in law in granting blanket injunction without properly appreciating the case of the defendants that there was a prior partition evidenced by public documents. Thus, even if the provisions contained in Section 6 of the Hindu Succession Act, 1956 ("the Act, 1956"), as amended by the Amendment Act, 2005, are attracted, yet, in view of sub-section (5) of Section 6 of the Act, 1956, the plaintiff would not be entitled to a share in

the suit properties as the partition had been effected before the 20th day of December, 2004.

12. Reliance was placed by Mr. Anturkar on a judgment of the Supreme Court in the case of ***Vineeta Sharma Vs. Rakesh Sharma & ors.***[1], wherein the Supreme Court has clarified that, in exceptional cases, where the plea of oral partition is supported by public documents and partition is finally evinced in the same manner as if it had been effected by a decree of a court, the same may satisfy the rigor of the Explanation to sub-section (5) of Section 6 of the Act, 1956. Attention of the Court was invited to the purported order of partition dated 25th November, 1985 and the mutation entry which was effected pursuant thereto.

13. Mr. Deshmukh, the learned Counsel for Respondent Nos. 1(a) to 1(d), countered the submissions on behalf of the petitioner, with equal tenacity. First and foremost, Mr. Deshmukh submitted that, as the injunction has been in operation since 2016, at this stage, this Court may not interfere with the concurrent exercise of discretion by the Courts below. Second, Mr. Deshmukh would urge, after the demise of

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Sakharam Ghule, the name of the plaintiff was mutated in the record of rights of the suit properties and, surreptitiously, the purported partition was effected before the Tahsildar without disclosing the name of the plaintiff as one of the heirs of the deceased Sakharam Ghule. The plaintiff has assailed the legality and validity of the said proceedings before the Tahsildar and the consequent mutation entries. Thirdly, and more importantly, the conduct of the petitioner completely disentitles them from claiming any equitable relief as, despite the injunction order, the defendants have transferred portions of the suit properties. Attention of the Court was invited to the entries in the revenue record which indicate that the defendants have executed instruments and transferred the portions of the suit properties since the year, 2024.

14. To begin with, it is necessary to note that, in the exercise of supervisory jurisdiction, this Court is not expected to interfere with the discretionary orders passed by the Courts below unless such orders suffer from patent illegality, errors of jurisdiction or are otherwise perverse. The High Court cannot reappreciate and reweigh the material and take a different view of the matter than the one taken by the Courts below. In

substance, the High Court cannot exercise appellate jurisdiction in the guise of supervisory jurisdiction. A profitable reference, in this context, can be made to a Constitution Bench judgment of the Supreme Court in the case of ***Rajendra Diwan Vs. Pradeep Kumar Ranibala & anr***[2].

15. The fact that, the injunction has been in operation since the year, 2016, also significantly bears upon the propriety of interference with the impugned orders. Ordinarily, this Court would be loath to unsettle the position which has held the field, by way of an interim measure, for almost a decade. The situation is further exacerbated by the fact that, despite the injunction order, the defendants have transferred portions of the suit properties with impunity. Mr. Anturkar was candid enough to concede that, the fact that the portions of the properties have been transferred despite the restraint order, cannot be disputed. Mr. Deshmukh was, thus, justified in canvassing the submission that this conduct of the defendants, by itself, disentitles the defendants from seeking equitable relief.

16. Nonetheless, even on merits, this Court does not find any reason to interfere with the concurrent exercise of discretion by

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the Courts below. The fact that, the plaintiff was the daughter of Sakharam Ghule and, thus, became a coparcener can hardly be disputed. It is imperative to note that, after the demise of Sakharam Ghule, the name of the plaintiff was mutated in the record of rights of the suit properties as one of his legal heirs. If viewed through this prism, the challenge to the purported partition on the ground that, the name of the plaintiff was not disclosed as one of the legal heirs of Sakharam Ghule, when the suit properties were allegedly partitioned under Section 85 of the Act, 1966 *prima facie* makes out a strong case. From this standpoint, the reliance on the decision in the case of ***Vineeta Sharma (supra)***, does not advance the cause of the petitioner, at this stage.

17. Moreover, the brazen acts of the defendants in transferring portions of the suit properties despite the injunction order, tilt the balance of convenience in favour of the plaintiff, inexorably. In these circumstances, interference with the impugned orders would cause irretrievable prejudice to the plaintiff.

18. Resultantly, the petition deserves to be dismissed.

19. Hence, the following order : -

: : O R D E R : :

(i) The Writ Petition stands dismissed with costs.

(ii) Rule discharged.

[N. J. JAMADAR, J.]