

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6601 OF 2019
WITH
INTERIM APPLICATION NO. 122 OF 2026**

Shri Trimbak Manik Pondkule and Anr ... Petitioners/Applicants

vs.

Shri Motiram Manik Pondkule and Ors ... Respondents

Mr. Sudhir V. Sadavarte for the Petitioners

Mr. Chandrashekhar Yadav for Respondent Nos. 1 and 2.

CORAM : GAURI GODSE, J.

DATED : 29th JANUARY 2026

ORDER:

INTERIM APPLICATION NO. 122 OF 2026

1. This application is for bringing on record the names of heirs and legal representatives of Petitioner No. 1.
2. In the facts and circumstances of the case, the application is allowed in terms of prayer clause (b) and (c).
3. Amendment to be carried out within two weeks.

WRIT PETITION NO. 6601 OF 2019

4. This petition is filed by defendant nos. 1 and 2 to challenge

the order passed by the trial court directing for transmitting the papers and decree for effecting partition in view of the provision of Section 54 of the Civil Procedure Code, 1908('CPC'). The decree for partition and separate possession has attained finality.

5. Learned counsel for the petitioners submits that defendant no.4 has expired. Hence, the application was filed for bringing on record the names of heirs and legal representatives of defendant no.4. Hence, it was necessary for the trial court to decide the application before sending the decree to the Collector for effecting partition under Section 54 of the CPC.

6. I have perused the papers. In the judgment and decree passed by the first appellate court, defendant no.4 is shown as deceased. The first appellate court has already recorded the division of shares of deceased defendant no.4 in paragraph no. 30 of the judgment. Hence, I see no reason for not sending decree for effecting partition, in view of Section 54 of the CPC.

7. It is clear that an attempt on the part of the petitioners of filing this petition is only to delay the execution of the decree and defeat the rights of the plaintiff. There is no illegality or perversity in the reasons recorded in the impugned order warranting any interference under Article 227 of the Constitution of India.

8. The writ petition is therefore rejected.

9. The suit for partition and separate possession is of the year 2007 and the decree under execution passed by the first appellate court is dated 19th October 2006. Hence, the proceedings for actual division and effecting partition and separate possession as per the decree is expedited. The actual division as per the partition decree shall be effected as expeditiously as possible and the parties shall cooperate for the same and shall not seek any unnecessary adjournments. The concerned Joint Civil Judge, Junior Division, Indapur shall expedite the process of sending the papers as per order dated 28th March 2018.

10. In view of disposal of the writ petition, the interim application is disposed of as infructuous.

(GAURI GODSE, J.)