



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

...
WRIT PETITION NO.5144 OF 2024
AND
WRIT PETITION NO.5145 OF 2024
...

WRIT PETITION NO.5144 OF 2024

1. Baba s/o Rajeshwar Sonkusare,
Aged about 64 years, Occ: Agriculturist,
2. Prakash s/o Rajeshwar Sonkusare,
Aged about 55 years, Occ: Agriculturist

Both 1 and 2 R/o R/o At Harni, Khambada,
Chandrapur.

3. Shantabai W/o Pandurang Bokade,
Aged about 63 years, Occ: Housewife,
R/o Behind Shivaji College, Gokul Nagar,
Gadchiroli.
4. Nandkishor S/o Someshwar Sorte,
Aged about 48 years, Occ: Agriculturist,
R/o Besara Colony Bajarang Nagar,
Ward No.14, Sonapur Complex,
Gadchiroli.

....PETITIONERS

(Orig. Intervenor)

...VERSUS...

1. Lahuji S/o Vithobaji Nikhare
Aged about 85 years, Occ: Agriculturist,
R/o Navegaon, Post Mudzen Gadchiroli,
Tah. Dist. Gadchiroli.

(orig. Plaintiff)

2. Rajesh Gajanan Nikhare
Aged about 52 years, Occ: Agriculturist,
R/o behind Satkar Hotel, Near Shyam
Talkies, Gadchiroli.

(orig. Defendant Nos.2 to 17)

3. Ranjana Shyamrao Sorte,
Aged about 50 years, Occ: Agriculturist,
R/o Near Petrol Pump, Armori Road,
Gadchiroli.
4. Chhayabai Sharad Bakde,
Aged about 46 years, Occ: Agriculturist,
5. Sanjay Gajanan Nikhare,
Aged about 45 years, Occ: Agriculturist,

Respondent nos.4 and 5 R/o Behind
Satkar Hotel, Near Shyam Talkies,
Gadchiroli.
6. Vandana Ramesh Kumbhare
Aged about 44 years, Occ: Agriculturist
R/o Shishak Colony, Behind Police Station,
Bhadravati, Dist. Chandrapur.
7. Gangubai Khemaji Nikhare,
Aged about 70 years, Occ: Agriculturist,
8. Mandabai Rambhau Nikhare
Aged about 65 years, Occ: Agriculturist
9. Anjusha Chandrashekhar Dalal
Aged about 45 years, Occ: Agriculturist
10. Bhaskar Khemaji Nikhare
Aged about 63 years, Occ: Agriculturist

Respondent nos.7 to 10
Residence of Navegaon, Post – Mudsa
Gadchiroli.
11. Vimal Laxman Dhakate,
Aged about 59 years, Occ: Agriculturist
R/o Shrinagar Delanwadi, Bramapuri,
Dist. Chandrapur.
12. Pushpa Ravindra Kohade
Aged about 53 years, Occ: Agriculturist
R/o Navegaon, Po-Mudza, Gadchiroli.

13. Lalita Ramesh Dhakare
Aged about 48 years, Occ: Agriculturist
R/o Navegaon, Po-Mudza, Gadchiroli.
14. Sunita Maroti Gonnade
Aged about 48 years, Occ: Agriculturist
R/o Pimpalgaon, Tah. Bhramapuri,
Dist. Chandrapur.
15. Tanaji Shyamrao Murteli
Aged about 30 years, Occ: Service
R/o Pardi, Tah. & Dist. Gadchiroli.
16. Ravindra Nilkantha Kumbhare,
Aged about 33 years, Occ: service
R/o Pardi, Tah. and Dist. Gadchiroli.
17. Santa Nirnakali Mandal
Through its authorized person
Kishan Lilaram Nagdeve,
Aged about 55 years, Occ: in front of
Police Statin, Desaiganj (Vadsa),
Tah. Desaiganj, Dist. Gadchiroli.

...RESPONDENTS

**WITH
WRIT PETITION NO.5144 OF 2024**

Harichandra s/o Bodhaji Hedao,
Aged about 77 years, Occ: Agriculturist,
R/o Near Ashirwad Mangal Karyalay,
Fule Ward, Gadchiroli.

....PETITIONER
(Orig. Intervenor)

...V E R S U S...

1. Lahuji S/o Vithobaji Nikhare
Aged about 85 years, Occ: Agriculturist,
R/o Navegaon, Post Mudzen Gadchiroli,
Tah. Dist. Gadchiroli.
2. Rajesh Gajanan Nikhare
Aged about 52 years, Occ: Agriculturist,
R/o Behind Satkar Hotel, Near Shyam
Talkies, Gadchiroli.

(orig. Plaintiff)

(orig. Defendants)

3. Ranjana Shyamrao Sorte,
Aged about 50 years, Occ: Agriculturist,
R/o Near Petrol Pump, Armori Road,
Gadchiroli.
4. Chhayabai Sharad Bakde,
Aged about 46 years, Occ: Agriculturist,
5. Sanjay Gajanan Nikhare,
Aged about 45 years, Occ: Agriculturist,

Respondent nos.4 and 5 R/o Behind
Satkar Hotel, Near Shyam Talkies,
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Aged about 70 years, Occ: Agriculturist,
8. Manadabai Rambhau Nikhare
Aged about 65 years, Occ: Agriculturist
9. Anjusha Chandrashekhar Dalal
Aged about 45 years, Occ: Agriculturist
10. Bhaskar Khemaji Nikhare
Aged about 63 years, Occ: Agriculturist

Respondent nos.7 to 10
Residence of Navegaon, Post – Mudsa
Gadchiroli.
11. Vimal Laxman Dhakate,
Aged about 59 years, Occ: Agriculturist
R/o Shrinagar Delanwadi, Bramapuri,
Dist. Chandrapur.

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Dist. Chandrapur.
15. Tanaji Shyamrao Murteli
Aged about 30 years, Occ: Service
R/o Pardi, Tah. & Dist. Gadchiroli.
16. Ravindra Nilkantha Kumbhare,
Aged about 33 years, Occ: service
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17. Santa Nirnakali Mandal
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Kishan Lilaram Nagdeve,
Aged about 55 years, Occ: In front of
Police Statin, Desaiganj (Vadsa),
Tah. Desaiganj, Dist. Gadchiroli.

...RESPONDENTS

Shri U.Y. Sonkusare, Advocate for petitioners.

Shri V.N. Morande, Advocate for respondent nos.2 to 16

CORAM:- M.W. CHANDWANI, J.

DATE :- 13.01.2026

ORAL JUDGMENT:

. Both the petitions challenge the order dated
12.03.2024 passed by the Joint Civil Judge Junior Division,
Gadchiroli in Regular Civil Suit No.59/2018 below Exhibit 226.

2. The petitioners in both the writ petitions are claiming to be sons of deceased Sakhubai and Bhagabai respectively. Both the petitioners claimed that Sakhubai and Bhagabai were sisters of respondent no.1 i.e. the original plaintiff and aunts of respondent nos.2 to 4 i.e. the original defendants in Regular Civil Suit No.59/2018. Since, respondent no.1 i.e. the original plaintiff has filed a suit for partition and separate possession against his nephew, the petitioners in both petitions have applied for adding them as party defendants. However, the learned trial Court rejected both these applications on the ground that no documents are produced to show that Sakhubai and Bhagabai were daughters of Vithoba, who was the original owner of the land subjected to partition.

3. Learned counsel for the petitioners submits that during the pendency of the applications, they obtained birth certificate of Bhagabai which shows that she was the daughter of Vithoba. According to him, the learned trial Court has non-suited the petitioners without hearing the matter on merits. Further, the issue of relationship should have been decided by the trial Court at the time of final disposal of the suit. Therefore, he seeks to set aside the impugned orders passed by the trial Court.

4. Learned counsel appearing on behalf of the respondents vehemently objected to the petitions on the ground that no document has been filed on record. The birth certificate was obtained from the Tahsildar who has no jurisdiction to issue birth certificates.

5. Having heard the learned counsels for both the parties and having gone through the impugned orders, it appears that the suit is for partition, filed by one Lahuji Vithobaji Nikhare against his nephews. The petitioners in both the petitions are claiming to be sons of Sakhubai and Bhagabai, the daughters of Vithoba who was the father of plaintiff and grandfather of the defendants. It appears that the respondents are disputing the relationship of the petitioners with the original plaintiff as well as the original defendants.

6. The question as to whether the application has been filed before the trial Court on affidavit by the petitioners claiming that they are sons of Sakhubai and Bhagabai respectively, and whether Sakhubai and Bhagabai are daughters of Vithoba, the father of the plaintiff is a matter of trial. The learned trial Court ought to have granted an opportunity to the present petitioners by impleading them as party defendants in the suit. Whether the petitioners have

nexus with the family of the party to the suit can be decided on the merits of the suit. The trial Court should not have non-suited the petitioners at the threshold.

7. So far as the submission of the learned counsel for the respondents that they are not relatives either of the original plaintiff or the original defendants and even the suit property is not property of Vithoba is concerned, that can be analysed in depth during trial and all these points can be raised by the respondents in the trial. Therefore, the impugned orders passed by the trial Court rejecting the application for intervention are hereby set aside.

8. The petitions are allowed in the abovesaid terms. The plaintiff is directed to add the petitioners as party defendants. It appears that the suit is of 2018. Almost 7 years have passed and since the evidence of the plaintiff is not completed, the trial Court is directed to see that the matter shall be decided as expeditiously as possible, preferably within one year from today.

9. With this, the petitions stand disposed of.

(M.W. CHANDWANI, J.)

Wagh