

Reg. D. No.09/2025

Roshan

Vs

Yandraraj + 1

ORDER PASSED BELOW EXH.01

1. The present execution petition is filed for execution of the judgment and decree passed in Regular Civil Suit No. 50 of 2022, whereby the suit for partition was decreed on merits.
2. The record shows that the property consists exclusively of agricultural land assessed as land revenue. The civil court, after full adjudication, has finally determined the shares of the parties. The operative part of the judgment and decree specifically directs that a precept be sent to the Collector under Section 54 of the Code of Civil Procedure for effecting partition of the suit property.
3. Admittedly, as of today, appeal is not filed against the said decree and that no stay is operating against its execution. The decree has therefore attained finality. The petition is filed only to give effect to the statutory direction contained in the decree under Section 54 of the Code of Civil Procedure.
4. Section 54 of the Code of Civil Procedure provides that where a decree for partition relates to agricultural land or an undivided estate assessed to revenue, the actual partition is to be carried out by the Collector or a subordinate revenue officer in accordance with the relevant land revenue law.
5. Once the civil court declares the rights and shares of the parties and directs transmission of the decree to the Collector, no further

adjudicatory or executable function survives before the civil court, which thereafter becomes functus officio in respect of execution of the partition.

6. The legal position is authoritatively settled by the Hon'ble Bombay High Court in ***Prakash Nathyaba Bhosale v. Laxman Genaba Bhosale (2003 (1) All MR 1016)***, wherein it is held that –

“Once the papers are transmitted to the revenue officer, the Court passing the decree for partition under Order 20, Rule 18(1) of Code of Civil Procedure becomes functus officio in relation to the decree for partition passed by it and all further proceedings for the execution of such decree are to be carried out by the concerned revenue officer.”

7. Therefore, in cases governed by Section 54 CPC, continuation of execution proceedings before the civil court is unnecessary, as the rights of the parties stand concluded by the decree. The said judgment further clarifies that the Collector acts as a statutory authority and any grievance regarding the manner or mode of partition can be raised before the Collector in accordance with law.

8. In the present case, this Court is not called upon to decide any issue between the parties. The execution petition is procedural in nature and continuation of the same would amount to an empty formality and cause avoidable delay in implementation of the decree.

9. It is further necessary to clarify that issuance of notice to the judgment-debtor in the present execution proceedings in such matters, is not warranted. In a decree for partition of agricultural land governed by Section 54 of the Code of Civil Procedure, the civil court does not execute the decree in the conventional sense. The court merely

declares the rights and shares of the parties and transmits the decree to the Collector for statutory partition.

10. In view of the statutory mandate of Section 54 CPC and the binding precedent of the Hon'ble Bombay High Court, the execution petition deserves to be disposed of.

ORDER

1.	The Execution Petition stands disposed of.
2.	The office is directed to transmit the certified copy of the decree along with the precept to the concerned Collector under Section 54 of the Civil Procedure Code for effecting partition of the suit property, in accordance with law.
3.	Disposal of the execution petition is without prejudice to the permissible remedies available to the parties before the Collector.

Date: 22.04.2026

(A. T. Bansod)
Civil Judge Junior Division,
Tirora, District - Gondia.