

MHNG180015782022	R.D. No. 08/2022 Vasanta Bhagwan Bagde Vs. Krushna Dashrath Bagde & Ors. <u>ORDER BELOW EXH. 1</u> (Passed on 15th December, 2022)
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The decree holder has filed present darkhast for sending the precept to the Collector, Nagpur for putting him in physical possession of his share on the basis of decree passed in Regular Civil Suit No. 187/2012. On perusal of decree passed in Regular Civil Suit No. 187/2012, it is seen that, there are specific directions for sending the decree to the Collector for effecting partition of agricultural property. The judgment debtors are appeared before the Court. Heard the learned counsel for the decree holder. Accordingly, precept be sent to the Collector, Nagpur, as per order of this Court.

2. Hence, in view of Judgment and Decree in Suit No. 187/2012, it is necessary to send precept to Collector Nagpur. As per Section 54 of Civil Procedure Code the decree will have to be sent to Collector for its partition in terms of decree. In this regard, I would like to refer here the case **Annasaheb Rajaram Nagane and another Vs. Rajaram Maruti Nagane and others, 2001(3) Mh.L.J. 53**, wherein it, the Hon'ble High Court has held in paragraph No. 24 as under -

“24. The narration of facts extracted herein above unequivocally demonstrate that the decree in question was preliminary with respect to the lands assessable to revenue, all further proceedings were required to be taken before the Collector or any gazetted officer subordinate to him, to whom the powers were delegated by the Collector as per section 54 read with order 20, Rule 18 of Civil Procedure Code. When matter goes before the Collector, he has to pass final decree by coming to the conclusion,

how the land should be partitioned between the parties and then he has to execute the decree actually by putting the parties in possession of the respective portion allotted to them. The Civil Court has no say in the matter as to how the land is to be partitioned between the parties, so as to say, for preparing final decree. So, it was obligatory on the part of the Civil Court to transfer papers to the Collector for effecting partition as per declaration made in the judgment. All further proceedings with respect to such decree are required to be taken up by and before the Collector. As a matter of fact, it was not necessary for the applicants/decreed holders to move or make any application to the Court to send the decree to the Collector. It was a duty of the Court to send necessary papers to the Collector as per the directions given in the decree itself.....”

3. Hence, in view of the directions of the Hon'ble High Court in above citation, I proceed to pass following order in the interest of justice In the result, I pass following order.

ORDER

1. The order passed in the Judgment and Decree in R.C.S. No. 187/2012 on 01.08.2022 be sent to the Collector, Nagpur for partition in terms of the decree.
2. Both parties to pay expense for effecting partition to Collector directly.
3. The decree holder shall move the Collector, Nagpur directly for getting the decree executed in respect of the property mentioned in the decree.
4. Decree and other relevant papers be sent to collector, Nagpur Section 54 of Civil Procedure Code on P.F.

Date : 15/12/2022
Place : Kalmeshwar

(Smt. J.D.Hushangabade)
Civil Judge Jr. Dn.,
Kalmeshwar