

Order below Exh.200 in R.C.S. No.272/2019

1. Defendant No.2 has filed this application for appointment of court commissioner.

2. As per defendant No.2, this is the suit for partition and separate possession. There are 13 parties to the suit. All the properties possessed by each of the parties are the ancestral properties. Partition of these properties have taken place in the year 1988 and since then, the parties are possessing the land coming to their respective shares.

3. In the land at Gat No.1282/1, there are Wheat and Jawar crops. In land at Gat No.1280/ब 2 and 1282/ब 3 there is Wheat crops. In the land at Gat Nos.447 and 274/1/ब/1 there is a crop of Maize. These crops are cultivated by defendant Nos.1, 3 to 5 and the plaintiffs. These crops are fully grown and they are likely to be sold in days to come. Therefore, this application praying that a court commissioner be appointed, as was previously appointed for the sugarcane crop for witnessing the entire process from cutting of the crops till it is sold in the market. And for directing the court commissioner to deposit the sale proceeds in the court. Hence, this application.

4. Defendant Nos.1, 3 and 4 strongly oppose this application by filing say at Exh.209. By denying entire contents of the application it is their specific case that though there is field in the name of defendant No.2, he does not cultivate the field. Defendant Nos.1, 3 and 4 are agriculturist by profession. Their livelihood depend upon the agriculture. They also have domestic animals such as Cow and Buffaloes for the business of milk. Therefore, alongwith the Jawar and Maize crops, they have grown fodder for their animals. If the court commissioner is appointed and the money realized by him from selling this crops is deposited in the court, they would have nothing to feed their animals, who are 20-25 in numbers. Resultantly, they would die. They would suffer loss of fifteen to twenty lacks. It is also their case that defendant No.2 is a man who always indulge in filing false complaints. He has criminal incidents. A proposal is also initiated against him from entering into this village. Thus, the application is prayed to be rejected.

5. Plaintiff also strongly opposes this application by filing say at Exh. 218. He submits that in case if the crops are sold by appointing a court commissioner and sale proceeds are deposited in the court, he would loose his agricultural income.

So also, he would be deprived of fodder for animals. Accordingly, the application is prayed to be rejected.

6. Heard the learned advocate for defendant No.2, the learned advocate for defendant Nos.1, 3 and 4, and the learned advocate for plaintiff. During the course of argument, it was argued by the learned advocate for defendant No.2, that a similar application was filed by him, which is allowed by this court and on this backdrop this application should also be allowed.

7. This is the suit for partition. In the suit for partition every party is plaintiff. It is an admitted fact that the agricultural land which the parties possess are the lands belonging to the joint family. They are ancestral lands. In such circumstances, the prayer of defendant No.2 for appointing the court commissioner for monitoring the process right from the cutting the crops till selling it in the market and then depositing the sale proceeds in the court seems to be totally unwarranted. Though the partition is yet to take place yet shares in the properties are to be crystalized. Directing the sale proceeds of the crops which are grown in by the plaintiffs and defendant Nos.1, 3 and 4, would be causing an infringement of their right on their livelihood. The

question of mesne profit would be decided in case the suit is allowed. Also a separate inquiry for the same is required to be initiated. The arguments of the learned advocate for defendant No.2 cannot be accepted that this application is on the same footing with that of the application he applied for selling of sugarcane crops to the sugar factory. In that application, the court commissioner was appointed for simplicitor monitoring the process, right from the cutting of the sugarcane crops till sending it to the sugar factory. The sale proceeds earned from selling of sugarcane crops were never directed by this court to be deposited in this court. Thus, the application being devoid of merits is required to be rejected. Hence, the order.

A - Application is rejected.

Date : 06.03.2025

Swayam S. Chopda.
Jt. C.J.J.D., Pandharpur.

CERTIFICATE

I affirm that, the contents of this PDF file Judgment/Order are same word to word, as per the original Judgment / Order.

Court : Jt. C. J. J. D. Pandharpur.

Name of Stenographer : R.M.Gogi.

Date : 06.03.2025

Judgment/Order signed by
the Presiding Officer on : 07.03.2025.

Judgment/Order uploaded on : 07.03.2025