

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

907 WRIT PETITION NO. 9712 OF 2013

GANGARAM DEVRAO NARWADE
VERSUS
SHIVAJI GANGARAM NARWADE AND OTHERS

...
Advocate for Petitioner : Sanjay L. Bhapkar
Advocate for Respondents 1 & 3 : Mhase Madhaveswari S.
...

CORAM : T.V. NALAWADE, J.
DATED : 29th September, 2016.

ORDER :

1. The petition is filed to challenge the order made on Exh. 79 in R.C.S. No. 345/2012 which is pending in the Court of Civil Judge, Senior Division, Ahmednagar. The suit is filed for partition by the present petitioner against his son, wife and daughters.

2. By filing application for amendment of plaint, the petitioner wants to contend that by deceiving him, his signature was obtained on a partition document and on the basis of that document, which was prepared in the year 1990, mutations were made. It is his case that only due to the contention made by the defendants in Regular Civil Suit No. 376/2013 and production of copy of partition document in the said suit, he realized that such document was created and it is being used against him. On that ground, he wants to contend that the said partition document is

not binding on him and that partition needs to be set aside.

3. The Trial Court has rejected the application by holding that the document was created in the year 1990, mutations were also made on the basis of said partition document and so, in the year 2013, no relief in respect of the said partition can be claimed, as such claim is barred by law of limitation.

4. Parties are Hindu by religion and if there is document of partition which is signed by the father, it needs to be presumed that the father as a Karta and in his capacity as father had effected the partition. The circumstance that he has not left any property for him cannot be considered in such circumstance and if he was really deceived, it was necessary for him to challenge the said partition within prescribed period of limitation. When mutations were made on the basis of partition document, he cannot say that he had no knowledge of the partition and he came to know about the partition in the year 2013 itself. Even if, the best case possible for petitioner is accepted, it can be said that claim itself is time barred. The Trial Court has not committed any error in rejecting the application. The petition stands dismissed.

[T.V. NALAWADE, J.]

ssc/