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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11666 OF 2015

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| 1. | Sulochanabai Shankarao Jadhav
Age - 70 years, Occ - Agriculture
R/o Rani Savergaon, Taluka - Gangakhed,
District - Parbhani | PETITIONERS |
| 2. | Shardabai Daulatrao Paul,
Age - 50 years, Occ - Agri and Household
R/o Khandali, Taluka - Ahmedpur
District - Latur
At present residing at Samarth Housing Society,
H. No.3, Paul Nivas, Old MIDC Road,
Latur, District - Latur | |

VERSUS

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| 1. | Kusumbai Dagdu More
Age - 53 years, Occ - Household
R/o Pansevadi, Taluka - Kandhar
District - Nanded | RESPONDENTS |
| 2. | Maroti Baba Kutte,
Age - 68 years, Occ - Agriculture | |
| 3. | Namdeo Maroti Kutte,
Age - 37 years, Occ - Service | |
| 4. | Balaji Maroti Kutte,
Age - 30 years, Occ - Service
Respondents No.2 to 4 R/o Nagalgaon,
Taluka - Kandhar, District - Nanded | |
| 5. | Renuka Narayan Jadhav,
Age - 28 years, Occ - Household
R/o Rani Savargaon,
Taluka - Gangakhed, District - Parbhani | |
| 6. | Girjabai Maroti Kutte,
Age - 65 years, Occ - Household
R/o Nagalgaon, Taluka - Kandhar | |

District - Nanded

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Mr. Hamzakhan I. Pathan, Advocate for the petitioners
Mr. Ramesh Wakade, Advocate for respondent No.1
Mr. P. V. Ambade, Advocate for respondents No.2 to 6
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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 26th APRIL, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. The petition has been moved purportedly aggrieved by order dated 1st September, 2015 upon application Exhibit-66 in regular civil suit No.6 of 2013 seeking impleading of petitioners claiming that they are sister and niece - sister's daughter of defendant No.1 namely Maroti Baba Kutte. It is claimed that baring few properties, as have been referred to in the application, rest of the properties are the ancestral properties and that they have share in the same. None of the other particulars, rather relevant particulars have been given in the application, nor do the dates of marriages of sisters, nor the date of death of Baba, nor other properties contentedly left behind by Baba.

3. After hearing learned advocates for the parties it appears to be a case of the parties that suit properties are ancestral. The suit has been instituted by daughter of defendant No.1 seeking partition and separate possession of the suit properties, which defendant No.1 claims to have come to his share in partition of ancestral properties effected between him and his brother Ramrao. Ramrao's properties in said partition are not subject matter of the suit. Perusal of the order shows that the court has also considered while passing the order conduct of present petitioners in respect of other proceedings.

4. Learned advocate for respondent No.1 - plaintiff states that as a matter of fact, the evidence is concluded and arguments of plaintiff are also over and the suit is posted for arguments of defendants and at this stage application had been mischievously moved in order to protract the litigation, to support defendant No.1, who is their brother and maternal uncle.

5. Having regard to that the petitioners purport to claim share in the suit property as ancestral property upon partition and have not particularly given relevant factual matters, which may be of relevance and also have not moved hitherto for partition of other properties left behind by Baba, the impugned

order passed by the court does not appear to be faulted with. Ultimately, it is discretionary order wherein it has appeared to the court that the presence of present petitioners is not necessary for effectual and complete disposal of the *lis* as is appearing in the suit.

6. Writ petition, as such, is not being entertained and is dismissed. Rule stands discharged.

7. Observations in this order shall not influence decision making in other proceedings, which have limited efficacy only to the extent of decision in this writ petition.

8. However, this would not preclude the petitioners to have adjudication of rights in proper proceedings. If at all it comes to the same, it be decided in accordance with merits and considering the facts and law. This order would not prejudice rights of any of the party.

[SUNIL P. DESHMUKH, J.]