

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

917 WRIT PETITION NO. 11965 OF 2016

MEENABAI SANJAY SASE
VERSUS
DAGADU BAJABA MARATHE AND OTHERS

...
Advocate for Petitioner : Ambetkar Arvind G
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CORAM : T.V. NALAWADE, J.
DATED : 7th December, 2016.

ORDER :

1. The petition is filed to challenge the order made on Exh. 69 in Regular Civil Appeal No. 21/2011. The appeal is filed against the decree of partition by one Dagdu and others. Present petitioner is respondent No. 25 in the said appeal and she was one of the defendants.

2. Present petitioner was not party to the suit, but she is added as respondent by Dagdu in appeal. Now the respondent No. 25 wants to come on record to the array of appellant. There is right of appeal. But, if the party affected by the decree does not challenge the decree by filing appeal, at subsequent stage, she cannot be allowed to prosecute the appeal filed by somebody else. Further, she was not party to the suit and it can be said that no permission of Court is obtained and she came on

record only as legal heir of Dagadu. She was made party, but other legal heirs of Dagadu are already on record as appellants as they filed appeal. This Court holds that it is nothing, but an attempt to protract the decision of the appeal. No prejudice will be caused to the present petitioner as she can make submissions which are similar to the submissions made by the appellants in appeal which is filed against partition decree. The petition stands dismissed.

[T.V. NALAWADE, J.]

ssc/