

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

925 WRIT PETITION NO. 153 OF 2016

SARASWATIBAI SURYAKANT MOHARIR AND OTHERS
VERSUS
VASANT DAMODHAR MOHARIR AND OTHERS

Shri. Swapnil A. Deshmukh, Advocate, for petitioners.

CORAM: T.V. NALAWADE, J.

DATE : 25 AUGUST 2016

ORDER:

1) The petition is filed to challenge the order made by the learned Civil Judge, Junior Division, Ambad, on Exhibit 165 in in Regular Civil Suit No.123/2002. The suit is filed for relief of partition by respondent Vasant and others against one Suryakant. Suryakant was real brother of Vasant and now he is dead. Present petitioners are legal representatives of Suryakant. Suryakant had already filed written statement. This Court has seen contents of the written statement. Though original issues are not produced on the record, the contentions from the application can be ascertained and the petitioners want

that separate issues for them as to whether they are entitled to get share when defendant No.1 had contended that he has relinquished the share in favour of defendant Nos.2 to 10.

2) The suit is for partition. The Court will be deciding the extent of shares of the plaintiffs and the defendants in the suit property. The other defendants are purchasers from defendant No.1 and so they will be required to prove that the sale in their favour was made for legal necessity if defendant No.1 was Karta of the family. Contention of the defendant No.1 that he wants to relinquish the right in favour of the purchasers can be considered only to the extent of his right to sell his property if the purchasers fail to prove legal necessity. For that separate issue may not be necessary and everything will be covered by issue of legal necessity. This Court sees no reason to interfere in the order made by the trial Court and there is no necessity of framing additional issue. The petition is dismissed.

Sd/-
(T.V. NALAWADE, J.)

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