

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

902 CIVIL APPLICATION NO. 12564 OF 2017
IN FA/885/2016

...
MAHABUBI RASUL SHAIKH AND ANR.
VERSUS
JAINUDDIN MAHATAB JAMADAR AND ORS.

...
Advocate for Applicants : Mr.S.B.Choudhari
Advocate for Respondent No.1 : Mr.V.P.Golewar h/f. Mr.A.R.Joshi
AGP for Respondent No.2 : Mr.B.A.Shinde
Advocate for Respondent No.3 : Mr.S.S.Dande
...

**CORAM : R.D. DHANUKA &
SUNIL K. KOTWAL, JJ.**

DATE: 11th October, 2017

PER COURT :-

- 1) By this Civil Application, the applicants seek intervention in the First Appeal and seek direction against respondent No.3 (original appellant) to add the applicants as party respondent.

- 2) The applicants have already filed a separate Suit for partition against the original appellant and the same is pending. The original claimant has been permitted to withdraw certain amount by the Apex Court. The learned counsel for the applicants states that if the original claimant is allowed to withdraw the said amount, the partition Suit filed by the applicants against original appellant would be infructuous. He submits that the applicants are also entitled to certain share in the said amount, which is allowed to be withdrawn by the original claimant.

3) In our view, the applicants were not party in the land acquisition proceeding or before the Reference Court and are neither necessary parties nor proper parties to this proceeding. The applicants, however, may apply before the Supreme Court for modification of the order passed by the Supreme Court on 2.12.2016 in Civil Appeal No.11963 of 2016, if they so desire.

4) Civil Application is disposed of in the aforesaid terms.

5) No order as to costs.

(SUNIL K. KOTWAL, J)

(R.D. DHANUKA, J)

spt