

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

**15 WRIT PETITION NO. 13886 OF 2017**

DHANRAJ KISANLAL DONGRE AND OTHERS  
VERSUS  
GOPAL KISANLAL DONGRE AND OTHERS

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Advocate for Petitioners : Mr Kulkarni Abhishek

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CORAM : V.K. JADHAV, J.

Dated: December 04, 2017

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**PER COURT :-**

1. I find no substance in this writ petition.
2. The petitioners/original defendants have filed an application exh.47 for framing the additional issues. Respondents/plaintiffs have instituted the suit for partition and separate possession in respect of the ancestral property. By filing an application exh.47, the petitioners/original defendants requested the trial court to frame the additional issues 'A to I' as detailed in paragraph no.2 of the application. Trial court has rejected said application mainly on the ground that, petitioners/defendants have not specifically pleaded in the written statement as to which property was liable for

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partition and the same is not included as suit property in the suit seeking a decree of partition and separate possession. Trial court has also observed that petitioners/defendants have failed to mention the name of the persons who are necessary parties according to them.

3. On careful perusal of the written statement filed by the petitioners/defendants, it appears that, in paragraph no.16 of the written statement, the petitioners/defendants have only pleaded that suit is bad for non-joinder of necessary parties i.e. legal heirs of deceased Khemchand. It appears that, dispute is amongst the legal heirs of Kishanlal and there is no reference at all in the pleadings of both the parties about the share allotted previously to the brother/deceased Khemchand, if any. So far as suit property as shown in the plaint is concerned, that property came to be allotted to the share of deceased Kishanlal and it further appears that this position has not been disputed. It further appears from the pleadings of the

petitioners/defendants that in paragraph no.16 of the written statement, it has been only mentioned that, the plaintiffs have not joined all the properties in the suit and failed to seek substantial relief. Petitioners/defendants have not given the details of those properties which are not included in a suit instituted for partition and separate possession. It appears that, petitioners/defendants have vaguely pleaded certain facts in the written statement. Trial court has rightly observed that the remaining proposed issues are covered in issue no.2 which has already framed. So far as other issues as proposed in the application exh.47 are concerned, since vague contentions raised by the petitioners/defendants, requires no consideration. In view of the same, I do not find any substance in this writ petition. Writ petition is hereby dismissed. No costs.

**( V.K. JADHAV, J. )**

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