

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7821 OF 2017

Shri Sopan Dhondiba Mane
since deceased through
1A. Smt.Sushila Sopan Mane & Ors. ... Petitioners

Vs.

Shri Sahebrao Gulabrao Mane
since deceased through
1A. Shri Sanjay Sahebrao Mane & Ors. ... Respondents

Mr.Vijay Patil i/b Yogesh Patil for the Petitioners

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 19, 2017**

P.C. :

1. Not on Board. Upon urgent mentioning, taken on Production Board.
2. This petition is directed against the order dated 24.4.2017 passed by the learned Joint Civil Judge, Junior Division, Baramati, below exhibit 87 in Regular Civil Suit No.637 of 2012. The original plaintiff/petitioner has filed the suit for partition. The defendant had taken a plea that the partition is not required as the suit properties were already partitioned between the parties. In view of this

contention, the plaintiff/petitioner moved application below exhibit 87 that the additional issue putting burden on the defendant directing him to prove the previous partition is to be framed. However, the learned trial Judge gave reason that issue Nos.1 and 2 which were already settled on 1.12.2014, covered this proposed issue and rejected the application.

3. The learned Counsel for the Petitioner submitted that the additional issue is required in view of the contention raised by the defendant and the order passed by the learned trial Judge is to be set aside.

4. Perused the prayers made in the plaint; perused the issues which were settled earlier and the application for additional issue and the impugned order. The impugned order is found correct and legal and hence, it is maintained. The Writ Petition is dismissed summarily.

(MRIDULA BHATKAR, J.)