

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.

**943 WRIT PETITION NO. 1796 OF 2015**

NAGNATH RACHAPPA SHIVNAGE  
VERSUS  
BHIMASHANKAR SOMNATH SHIVNAGE AND OTHERS

...

Advocate for Petitioner : Mr. Mukund D. Gitte

Advocate for Respondent No.1 : Mr. H. H. Padalkar, h/f Mr. S. P. Katneshwarkar.

...

CORAM : **V. K. JADHAV, J.**

DATE : 24<sup>th</sup> January, 2018.

**ORDER:**

. I find no substance in this writ petition. The Respondent / original Plaintiff has filed an application Exhibit 36 seeking amendment in the plaint. The Plaintiff has instituted the suit for partition and separate possession in respect of the suit property, which is also the subject matter of the gift-deed. There is a specific pleading about the said gift-deed. However, no relief is claimed in respect of the said gift-deed. Consequently, the Plaintiff has filed an application Exhibit 36 for cancellation of the said gift-deed. It appears that the trial of the suit is yet not commenced and the nature of the suit also does not change due to the proposed amendment. In paragraph 8 of the plaint, the Plaintiff has specifically pleaded the transfer of the suit property vide gift-deed in favour of Defendant No.4 is not binding upon the Plaintiff

being void *ab-initio* and unauthorized.

2 In view of this, I find no fault in the impugned order. There is no substance in this writ petition. The writ petition is hereby dismissed.

No costs.

**[ V. K. JADHAV, J. ]**

*ndm*