

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13572 OF 2017

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| 1. Jagannath Uddhav Mali (Bhalerao), |] |
| Age : 50 Years, Occ. Agriculturist, |] |
| R/of Ambi, Tal. Bhumi, |] |
| Dist. Usmanabad. |] |
| 2. Anjanan Jagannath Mali (Bhalerao), |] |
| Age : 20 Years, Occ. Housewife, |] |
| R/of Ambi, Tal. Bhumi, |] |
| Dist. Usmanabad. |] |
| 3. Rahul Jagannath Mali (Bhalerao), |] |
| Age : 20 Years, Occ. Education, |] |
| R/of Ambi, Tal. Bhumi, |] |
| Dist. Usmanabad. |] Petitioners |

Versus

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| 1. Saraswati Tukaram Chikhalkar, |] |
| Age : 45 Years, Occ. Agriculturist, |] |
| R/at Pandare Wadi, Tal. Pandharpur, |] |
| Dist. Solapur. |] |
| 2. Raghunath Uddhav Mali (Bhalerao), |] |
| Age : 57 Years, Occ. Agriculturist, |] |
| R/of Ambi, Tal. Bhumi, |] |
| Dist. Usmanabad. |] |
| 3. Kamal Uddhav Mali (Bhalerao), |] |
| Age : 80 Years, Occ. Household, |] |
| R/at Annabhau Sathe Nagar, |] |
| Bhalerao Sirancha Bangla, |] |
| Station Road, Mohol, Tal. Mohol, |] |
| Dist. Solapur. |] |

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| 4. Suvarna Rajkumar Adhlingge, |] |
| Age : 40 Years, Occ. Household, |] |
| R/at Shivshankar Mangal Karyalaya, |] |
| Bekrai Nagar, Tal. Haveli, Dist. Pune. |] |
| 5. Manojkumar Raghunath Mali, |] |
| Age : 22 Years, Occ. Education, |] |
| R/at Annabhau Sathe Nagar, |] |
| Bhalerao Sirancha Bangla, |] |
| Station Road, Mohol, Tal. Mohol, |] |
| Dist. Solapur. |] Respondents |

Ms. Geeta Mulekar for the Petitioners.

None for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 17TH JANUARY 2018.

P.C. :

1. Heard Ms. Mulekar, learned counsel for the Petitioners.
2. By this Petition, filed under Article 227 of the Constitution of India, Petitioners are challenging the order dated 11th August 2017 passed by the Principal District Judge, Solapur, thereby rejecting the Civil Miscellaneous Application No.223 of 2016.
3. The said Civil Miscellaneous Application No.223 of 2016 was filed by the Petitioners, under Section 24 of the C.P.C. for transferring the

Suit, bearing Regular Civil Suit No.128 of 2015, pending on the file of the Civil Judge, Junior Division, Mohol, to the Court of Civil Judge, Senior Division, Solapur, where Civil Miscellaneous Application No.547 of 2015, filed for revocation of the Probate, was instituted by Respondent No.1.

4. It is submitted by learned counsel for the Petitioners that, in both the proceedings, the same issues are involved; parties are also the same; even the suit property is also the same and hence, in order to avoid multiplicity of proceedings, it is always desirable that both the proceedings be decided by one and same Court.

5. However, as rightly observed by the Trial Court, the Suit filed by the Petitioners is for partition of the suit property; whereas, the Civil Miscellaneous Application No.547 of 2015 is filed by Respondent No.1 for revocation of the Probate. Thus, the issues involved in both the proceedings are totally different, as the grounds for revocation of the Probate are different; whereas, the grounds for partition are also different. In the Suit, the rights of the parties are going to be crystallized; whereas, in the application for revocation of the Probate, only Probate will be revoked at the most. Therefore, it is not at all necessary that both the proceedings shall be decided by one and same Court, as the issues involved therein are different.

6. Hence, the impugned order passed by the Trial Court, being just, legal and correct, does not call for any interference. Writ Petition, therefore, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]