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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 13119 OF 2018**

Smt. Seema Sanja Katkar and anotherPetitioners

V/s.

Sou. Subhadrabai Bapu Katkar and othersRespondents

Mr. Ramdas A. Shelke for the Petitioners

CORAM : K. K. TATED, J.

DATE : 03rd DECEMBER, 2018.

P.C.

Heard Mr. Shelke, the learned counsel for the Petitioner.

2 By this Writ Petition under Article 227 of the Constitution of India, the Petitioner/original Defendant are challenging the order dated 01/08/2018 passed by 16th Jt. Civil Judge, Senior Division, Pune below Exhibit 45 in R.C.S. No. 1036 of 2013 rejecting their Application for joining Mr. Nitin Katkar as the Defendant in the Suit.

3 In the present proceedings, Respondent has filed R.C.S. No. 1036 of 2013 for partition and separate possession of HUF property. On the basis of the Application made by the Petitioner, property bearing Gat No. 25 was brought on record as the Suit property. Thereafter, the Petitioner filed Application below Exhibit 45 for joining the Nitin as the Defendant. Same stand rejected by the Trial Court on the ground that the Petitioners as defendants in Suit have no right to file such Application for joining parties in suit. The Trial Court also recorded that Plaintiff has to decide, as to whom he wants to add as party. Hence, the Petitioner filed present Petition.

4 The learned counsel for the Petitioner submits that they and the said Nitin purchased the said Suit property bearing Gat no. 25. Hence, said Nitin is necessary party in R.C.S. No. 1036 of 2013. These facts are not considered by the Trial Court at the time of passing the impugned order dated 03/08/2018. Hence, he preferred the present Writ Petition.

5 It is to be noted that in the present proceedings, the Petitioner who is defendant, filed Application below Exhibit 45 to safeguard the interest of the said Nitin. Nitin has not filed any Application for joining him as party in R.C.S. No. 1036 of 2013. In any case, Plaintiff has to decide to whom he wants to join as the party. These facts are considered by the Trial Court and hence, I do not find substance in the present Writ Petition.

6 The Writ Petition stands rejected.

7 No order as to costs.

[K. K. TATED, J.]