

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8618 OF 2019

Jayant Rajaram Chandsarkar & Anr. ...Petitioners

Versus

Avinash Rajaram Chandsarkar & Anr. ...Respondents

.....
Mr. Afzal Hussain Vakil M., Advocate for the Petitioners.
.....

CORAM : RAVINDRA V. GHUGE, J.

DATE : 17-07-2019.

PER COURT :

01. The petitioners are original defendant Nos. 1 and 2 in R.C.S. No. 175/2015. They are aggrieved by the Order dated 16.1.2019 passed by the Trial Court by which the application Exh. 31, seeking leave to add parties to the suit, has been rejected.

02. The learned Advocate for the petitioners has strenuously criticized the impugned Order. He submits that Exhibit 31 was filed to add proper parties to the suit. The third parties are sisters of the plaintiff and defendant No.1 and have a share in the property considering the amendment of 2005 to the Hindu Succession

Act, 1956. He relies on the Judgment of Honourable Apex Court in **Prakash and Ors. V/s Phulwati and Ors., (Civil Appeal No. 7217 of 2013 Decided on 16.10.2015)** to indicate that the sisters also have right to the property.

03. In so far as the contentions of the petitioner are concerned, they would be germane to the cause of seeking partition and separate possession of ancestral properties. However, the suit at issue is filed for only seeking injunction because the plaintiff is of the view that the defendants are disturbing his peaceful possession.

04. In this backdrop, the Trial Court has rightly rejected Exh. 31. The sisters have no role to play in the said injunction suit.

05. In view of the above, this petition, being devoid of merit, is, therefore, dismissed.

[RAVINDRA V. GHUGE]

JUDGE

Dahibhate/-