

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

22 WRIT PETITION NO.7906 OF 2019

RAM @ JALINDHAR (THROUGH LRS)
VERSUS
BALI SHAHAJI DUDBHATE AND ORS

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Advocate for Petitioner : Shri Patne Santosh N.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: July 01, 2019

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PER COURT :-

1. The petitioners / defendants are aggrieved by the impugned order dated 1.4.2019, passed by the trial Court, rejecting application Exhibit 134, filed by them, seeking framing of an issue of limitation in RCS No. 247 of 2011.

2. It is submitted that earlier, RCS No.92 of 1972 was filed by Anjanabai, which was allowed on 29.4.1980. The decree was assailed by the defendants in RCA No.49 of 1980, which was allowed and the judgment of the trial Court was set aside in 1985. Anjanabai preferred a Second Appeal No.232 of 1985, which was dismissed by judgment dated 28.6.2011. Nevertheless, this Court observed that the appellant is still entitled to seek partition of the suit land and separate possession of her share in it. It is in this backdrop that the L.Rs. of the said appellant / Anjanabai have preferred RCS No.247 of 2011.

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3. In view of the above, I do not find that any issue of limitation would arise and more so, in a suit for partition and separate possession. The impugned order is not perverse or erroneous.

4. This petition, being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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