

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 WRIT PETITION NO. 12044 OF 2018

SUBHASH S/O BHAU RATHOD AND OTHERS
VERSUS
DEVICHAND @ DEVIDAS S/O NANDU RATHOD AND OTHERS

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Advocate for Petitioners : Ms. Salunke Sheetal V.
Advocate for Respondents : Mr. Murge Estling S.

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CORAM : V. K. JADHAV, J.
DATED : 09th December, 2019

PER COURT:-

1. Heard finally with consent at admission stage.
2. I do not find any substance in this Writ Petition. The petitioners/intervenors filed an application Exhibit 82 in pending Regular Civil Suit No. 222 of 2012 for adding them as plaintiffs in the suit. Respondent nos. 2 and 3 herein, who are the original plaintiffs, have filed the said suit bearing Regular Civil Suit No. 222 of 2012 for declaration of ownership in respect of the land Gat No. 122 situated at village Shingoli, Taluka and District Osmanabad and a decree of perpetual injunction. However, during pendency of the suit, plaintiff no.1 effected partition of the suit property between himself and his three sons. Learned counsel though vehemently submitted that the petitioners/intervenors are the

necessary parties to the suit, I do not find any substance in the said submissions.

3. The plaintiffs have sought declaration about their ownership and if during pendency of the said suit the plaintiff no.1 has partitioned the land amongst his three sons, the petitioners/intervenors, who happened to be the sons, are bound by the result of the said suit. In view of the same, they are not necessary parties. I do not find any fault in the said order dated 27.09.2018 passed by the trial court below Exhibit 82 in Regular Civil Suit No. 222 of 2012.

4. Learned counsel for the petitioners placed reliance on the case of *Amit Kumar Shaw & another vs. Farida Khatoon & another*, reported in **AIR 2005 SC 2209**. So far as the ratio laid down by the Hon'ble Supreme Court in the said case is concerned, even if the same is applied to the facts and circumstances of the present case, no case is made out by the petitioners for adding them as plaintiffs in the suit. The Writ Petition is accordingly dismissed.

(V. K. JADHAV, J.)

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