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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7058 OF 2018

Rashid Ahmed Dange & anr.

..Petitioners

vs.

Mubarak Ali Dange & ors.

..Respondents

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Shri Dilip Bodake for petitioners.

Shri Prakash Mahadik for respondent Nos. 1A and 1B.

Shri Javeed Hussein a/w. Shri Manjeet Lotankar i/b. Hussein &
Co. Advocates for respondent Nos. 8 to 11.

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CORAM : M.S.KARNIK, J.

DATE : 28th AUGUST, 2019

P.C. :

Heard learned counsel for the petitioners.

2. By this Petition the petitioners who are original defendant Nos. 7 and 8 are challenging the order dated 21/4/2018 passed by the Civil Judge, Junior Division, Mahabaleshwar, District Satara, rejecting the application filed by them below Exhibit 69.

3. The application was filed contending that in the final decree proceedings the legal heirs are not made parties and therefore the final decree proceedings be declared as illegal. Learned counsel for the petitioners invited my attention to the averments made in the application Exhibit 69. He would point out that some of the legal heirs who ought to be made parties are not made parties. He would therefore submit that the trial Court was not justified in rejecting the application and in fact ought not to have proceeded with the final decree proceedings in the suit for partition as necessary legal heirs are not parties.

4. I have gone through the order passed by the trial Court. The trial Court has already recorded that the legal heirs have been duly represented before the trial Court. In fact even in the final decree proceedings they are properly represented by their respective branches. In such circumstances, if the trial Court has rejected the application, I see no reason to interfere with the order passed by the trial Court.

5. Learned counsel for the petitioners would then contend that the final decree proceedings are contrary to the provisions of Order 26 Rule 13 and 15 of the Code of Civil Procedure. However, no such contention is raised in the application below Exhibit 69 which forms the basis for rejection of the application. It is always open for the petitioners to raise the objection to the final decree as may be permissible and in accordance with law except for the one which has already been rejected by the impugned order.

6. Keeping this liberty of the petitioners open, the present Petition is rejected.

(M.S.KARNIK, J.)