

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

22 WRIT PETITION NO.1385 OF 2020

ANIS JAHAN BEGUM FAIZ MOHAMMAD THROUGH LRS
MOHAMMAD ABDUL KADIR AND OTHERS
VERSUS
KHAIRUNNISA BEGUM LATE FAROOQUE MOHAMMAD KHAN
THROUGH LRS NABEGHA MASOOD NIZAMODD

...
Advocate for Petitioners : Mr. Shaikh Mujtaba Gulam Mustafa
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**CORAM : ROHIT B. DEO, J.
DATED : 28th JANUARY, 2020.**

PER COURT:-

. The petitioners are the legal heirs of original plaintiff no.2, who has suffered a decree of partition since the counter claim lodged by the defendants is allowed. The plaintiff no.2 has also been granted share in the partition.

2. In the execution, the legal heirs of plaintiff no.2 preferred an application purportedly under Section 152 of the Civil Procedure Code for correction of the decree and for redefining the shares. This application is rejected on the ground that in exercise of power under Section 152, shares cannot be rework and only clerical errors can be corrected.

3. The submission of the learned counsel for the petitioners is that it has become necessary to redefine the shares in view of the events which have occurred after the

decree. If this be so, the petitioners are at liberty to take out an appropriate application. The application under Section 152 is clearly misconceived and is rightly rejected by the Trial Court.

4. It is trite law that in cases of partition, the shares can be redefined and suitably modified in view of the subsequent events even at the stage of execution, if this is required to be done in view of the subsequent events.

5. At this stage, the learned counsel for the petitioners states that after the order impugned, precept has been issued to the Collector. If this be so, the petitioners are at liberty to file appropriate application before the Collector who shall consider the same in accordance with law.

6. Writ petition is dismissed.

(ROHIT B. DEO, J.)