

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4496 OF 2021**

Sou. Parvati Sadashiv Nagtilak & Anr.Petitioners
V/s
Sou. Bhamabai Hanumant Bhosale & Ors.Respondents

**ALONGWITH
WRIT PETITION NO. 1651 OF 2020
ALONGWITH
INTERIM APPLICATION NO.3469 OF 2020
IN
WRIT PETITION NO.1651 OF 2020**

Sou. Parvati Sadashiv Nagtilak & Anr.Petitioners
V/s
State of Maharashtra & Ors. Respondents.

Mr. Sanjiv P. Kadam i/b Dnyaneshwar W. Bhosale for the Petitioners in both the Writ Petitions.

Mrs. M.S. Bane, AGP for Respondent Nos. 7 and 9 in Writ Petition No.4496 of 2021 and for Respondent Nos. 1 and 9 in Writ Petition No.1651 of 2020.

Mr. Ajay Joshi for Respondent No.2 in both the Writ Petitions.

Mr. Sandeep Salunkhe for Respondent No.3 in both the Writ Petitions.

CORAM: NITIN W. SAMBRE, J.

DATE: AUGUST 30, 2021

P.C.:-

1] Since Writ Petition No.1651 of 2020 and IA No. 3469 of 2020 taken out therein are not on board, they are taken on board.

2] Plaintiff/Respondent No.1 in Writ Petition No.4496 of 2021 initiated R.C.S. No.97 of 2018 for partition, separate possession and permanent injunction. In the said suit, Appellate Court allowed the appeal and set aside common order dated 24th September, 2019 passed below Exhibits-84 and Exhibit-135. Exhibit-135 of the Petitioners/original Defendant Nos. 6 and 8 came to be rejected.

3] At this stage, Counsel for Petitioners/original Defendant Nos. 6 and 8 on instructions concedes prayer (c) which is for partition of the suit property and seeks leave of this Court to withdraw these Petitions with further prayer to submit the same before the Trial Court for passing appropriate order in pending suit.

4] Counsel for the Plaintiff submits that there are other prayers in the suit and that being so, only by aforesaid submission, suit cannot be disposed of.

5] Be that as it may. As it is premature for this Court to consider the aforesaid submission, keeping in mind the submissions made by Mr. Kadam, Counsel for the Petitioner, it may be appropriate, in my

opinion, to permit the Petitioners to move before the Trial Court in pending R.C.S. No.97 of 2018 with the aforesaid prayer. Trial Court shall deal with the same expeditiously after considering objections, if any, on the issue of maintainability of the suit on the basis of other prayers made therein.

6] Keeping respective options and liberty open, present Petitions stand disposed of as withdrawn.

7] As a consequence of disposal of these Petitions, Interim Application taken out in Writ Petition No. 1651 of 2020 does not survive and same is also disposed of.

(NITIN W. SAMBRE, J.)