

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3437/2020
Samadhan s/o Punjaji Bahadure and anr
..VS..
Sulochana w/o Punjaji Bahadure and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri A.M.Jaltare, Counsel for Petitioners.

CORAM : V.M.DESHPANDE J.
DATED : JANUARY 12, 2021.

1. Heard learned counsel Shri A.M.Jaltare for petitioners *in extenso*.
2. By this writ petition, petitioners are challenging order dated 21.1.2020 passed below Exhibit 12 in Regular Civil Appeal No.219/2019 whereby learned 1st District Judge, Mehkar, district Buldana partly allowed application Exhibit 12 and directed present petitioners to pay maintenance Rs.2000/- per month to respondent No.1-Sulochana.
3. According to learned counsel for petitioners, application filed by respondent No.1-Sulochana for maintenance was not maintainable inasmuch as in application Exhibit 12 no provision of law was quoted. However, learned Judge below while exercising inherent powers under Section 151 of the Civil Procedure Code allowed the same.
4. Respondent No.1-Sulochana filed a suit for partition and separate possession against present writ petitioners and others. The said was registered as Regular Civil Suit No.6/2015.

.....2/-

On 17.8.2018, the said suit was decreed by learned Judge below and respondent No.1-Sulochana was granted 1/10 share in the suit property.

5. It is not in dispute before this Court that present writ petitioners are in possession of agricultural properties. Respondent No.1-Sulochana is aged about 62 years. Since petitioners are in possession and they are taking crops from agricultural land, surely she is entitled for share in money also.

6. Insofar as contention of petitioners that respondent did not quote any provision of law in the application for maintenance, in my view, it is untenable inasmuch merely because provision of law is not quoted that cannot bar for doing substantial justice especially in case of maintenance. When petitioners are in possession of agricultural land for which respondent Sulochana was given 1/10 share, in my view, learned Judge below rightly exercised inherent powers under Section 151 of the Civil Procedure Code and allowed the application.

7. In this view of the matter, no case is made out. The writ petition is dismissed. No costs.

JUDGE

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