

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

WRIT PETITION NO.4597 OF 2020

**SUGRABI MOHD. YUSUF AND ORS
VERSUS
HAMIDA BEGUM AND ANR**

...

Advocate for Petitioners : Mr. Patil Milind M. (Beedkar)

Advocate for Respondents : Mr. S.K. Chavan

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CORAM : MANGESH S. PATIL, J.

DATE : 07.07.2022

PER COURT :

The petitioners are the original plaintiffs and are aggrieved by rejection of their application (Exhibit-35) by the learned Civil Judge, Senior Division whereby, they prayed for separating the counter claim preferred by the respondents in their suit.

2. Admittedly, the suit was pending before the learned Civil Judge, Junior Division. The respondents preferred a counter claim which exceeded the pecuniary jurisdiction of the learned Civil Judge, Junior Division. On his request, the learned Principal District Judge transferred the suit to the court of Civil Judge, Senior Division having the pecuniary jurisdiction to decide even the counter claim.

3. Admittedly, the permission to file the counter claim was never challenged nor was the order passed by the Principal District Judge transferring the matter from the court of Civil Judge, Junior Division to the

court of Civil Judge, Senior Division was subjected to any challenge.

4. If such is the state of affairs, when the suit along with a counter claim is now pending before the learned Civil Judge, Senior Division which has the pecuniary jurisdiction to try even the counter claim, one cannot comprehend as to how the petitioners would now be entitled to seek separation of the suit from the counter claim and a separate trial.

5. The Writ Petition is dismissed.

(MANGESH S. PATIL, J.)

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