

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

WRIT PETITION NO.7694 OF 2022

**MEENA PRABHAKAR KHARDE
VERSUS
VAISHALI SHIVRAM SATHE AND OTHERS**

...
Advocate for Petitioner : Mr. Yuvraj R. Barhate
Advocate for Respondent : Mr. Shaikh Mazhar A. Jhagirdar

...
CORAM : MANGESH S. PATIL, J.

DATE : 22.07.2022

PER COURT :

Heard the Writ Petition finally.

2. In a suit for partition which is now ripe for hearing the final arguments, the petitioner who has been arrayed as defendant No.3 is aggrieved by the order passed by the trial court rejecting her application (Exhibit-288) seeking to set aside the 'No written statement' order and refusing to file a praecipe.

3. I have heard the learned advocate for the petitioner.

4. Admittedly, it is a suit for partition. Even the share of the petitioner would be carved out even in her absence. Besides, 'No written statement' order was passed way back in the year 2016 and after the long slumber she had moved the application in April 2022 when the suit is at the fag end.

5. Even the petitioner does not disclose as to if she intends to reopen the trial. She merely wants to file a praecipe purportedly

relinquishing her right and share in favour of the defendant No.1 who is the respondent No.2 herein.

6. In my view, the order passed by the trial court refusing to budge to the request of the petitioner cannot be said to be unsustainable or illegal. Her interests are bound to be protected since it is a suit for partition and the trial court is obliged to pass a decree in accordance with law by carving out her share, if she has. The suit is about to be decided. This Court, in my view, should not entertain the request in the aforementioned circumstances.

7. The Writ Petition is dismissed.

(MANGESH S. PATIL, J.)

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