

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

941 WRIT PETITION NO.8750 OF 2022

SURINDER KAUR RAJENDRER SINGH GULATI AND OTHERS
VERSUS
MANPREETKAUR TAJINDERSINGH SALUJA / KHANUJA AND
OTHERS

Shri. Prashant K. Nikam, Advocate for the petitioners
Shri. Vind I. Thole, Advocate for respondent Nos. 1 and 2.

**CORAM : M. G. SEWLIKAR, J.
DATED : 24th AUGUST, 2022**

PER COURT :-

1. Petitioners are the plaintiffs in a suit for partition. It is alleged that respondent Nos. 1 and 2 and their deceased mother have sold the entire property to defendant No.3 respondent No.3 herein for Rs.4 Crores. Out of the said amount Rs.3 Crores were paid to defendant Nos. 1 and 2 and their deceased mother. Amount of Rs.1 Crore was left to be paid. On causing appearance, respondent No. 3 deposited amount of Rs.1 Crore out of his own volition. This amount was claimed by respondent Nos. 1 and 2. The learned Trial Court allowed the respondent Nos. 1 and 2 to withdraw the amount without putting any condition. Learned counsel for the petitioner submits that the petitioners also have share in the property. If this amount is paid

to respondent Nos. 1 and 2 and if the suit is decreed the petitioner will not be able to recover amount from respondent Nos. 1 and 2. He therefore submits that some condition be put on the respondent Nos. 1 and 2 for the withdrawal of the amount. Learned counsel for respondent Nos. 1 and 2 submits that the petitioners are the sisters of father of respondent Nos. 1 and 2. It is a self acquired property of the father of respondent Nos. 1 and 2. The plaintiffs cannot have any share in the ancestral property. There is no evidence adduced by the petitioners to show that the suit properties are the ancestral property.

2. These are all the points which will be considered at the time of the hearing of the suit. At this stage, it is not appropriate to make any observation as it may affect the merits of the suit. In this view of the matter, amount be paid to respondent Nos. 1 and 2 on furnishing their undertaking that they would deposit the amount of Rs. 1 Crore forthwith if the suit is decided against them. Petition is disposed of.

[M. G. SEWLIKAR, J.]

ssp