

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.11929 OF 2021**

AMIT VINIT ATHALYE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. Aashish T. Jadhavar, Advocate for the
Petitioners.

Mr. K. N. Lokhande, AGP for Respondents-State.

Ms. P. S. Gondhalekar, Advocate for Respondent
No.2.

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**CORAM : SANDEEP V. MARNE, J.
DATED : 17th NOVEMBER, 2022.**

PER COURT:-

1. The petitioners have filed present petition assailing order dated 29.09.2021 passed by 12th Joint Civil Judge, Senior Division, Aurangabad. By that order application filed by respondent no.2 for addition of respondent no.2 in the petition filed under Section 211 and 218 of the Indian Succession Act, 1925 as a respondent has been allowed.

2. The petitioners are children of late Vinit Manohar Athaley, whereas respondent no.2 is the brother of the late Vinit Manohar Athaley. The respondent no.2 is claiming the share in the property bearing Gut No.72 at village Satara, Tq. and Dist. Aurangabad.

3. The learned counsel appearing for the petitioners Mr. Jadhavar would contend that respondent no.2 has already filed Civil Suit seeking declaration and injunction in respect of

very same land and that therefore his presence in the proceedings filed by the petitioners seeking issuance of Letter of Administration and succession certificate is not at all warranted. Referring to the provisions of Section 211 and 218 of the Act, 1925 Mr. Jadhavar would contend that respondent no.2 is selectively seeking to claim rights only in respect of one property, whereas the provisions contemplate consideration of all properties of the deceased person.

4. Per contra Ms. Gondhalekar, learned counsel appearing for respondent no.2 draws my attention to the document dated 22.06.1993 allegedly executed by late Vinit Manohar Athaley referring to the share of respondent no.2 in the land. The learned counsel for the petitioners disputes existence and content of the said document.

5. By that as it may. The respondent no.2 is undoubtedly claiming share in the property in respect of Letter of Administration and succession certificate is sought by the petitioners. The Trial Court has rightly allowed the application of respondent no.2 for being impleaded as respondent.

6. The petition is devoid of merits and the same is dismissed without any orders as to cost.

(SANDEEP V. MARNE)
JUDGE