

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION 9222 OF 2021

Sadashiv Shankar Bhusari .Petitioner

Vs.

Rohini Satish Buddhe & ors. .Respondents

Mr. Kalpesh U. Patil, Advocate, for the Petitioner
Mr. Kuldip T. Pawar i/b. Mr. P. P. More, Advocate, for the
Respondents

CORAM : ROHIT B. DEO, J.

DATE : 12.07.2022

P. C.

. The Plaintiff is assailing the Order below Exh. 286 rendered by the learned Civil Judge, Senior Division, Karad in R. C. S. 367 of 1976, whereby the Respondents 1 & 2 - Third Parties are permitted to be impleaded as the Defendants

2. In brief, Respondents 1 & 2 - Rohini Satish Buddhe & Dilip Sadashiv Bhusari claim to be the daughter and son of the Plaintiff from the wedlock with Mrs. Shantabai Sadashiv Bhusari. On the premise that as

co-parceners, the Third Parties are entitled to share and interest in the ancestral property, the Application under O. I, Rule 10 of the Code of Civil Procedure, 1908 (for short 'CPC') is preferred.

3. It is not in dispute that the mother of the Third Parties was the legally wedded wife of the Plaintiff. While the learned counsel for the Plaintiff would submit that the Third Parties are not born from the wedlock between the Plaintiff and the deceased – Mrs. Shantabai Bhusari, the learned trial Court has considered overwhelming material which prima facie indicates otherwise. The material includes the Order under Section 125 of the Code of Criminal Procedure, 1973 directing the Plaintiff to pay maintenance to the Third Parties. Copies of the School Leaving Certificate, Ration Card, Aadhar Card etc. are further considered. In any event, this is not the stage to consider the submission of the learned counsel that the Third Parties are not children from the wedlock with Mrs. Shantabai Bhusari.

4. The learned trial Judge has noted the stand of the

Plaintiff that he has married Krishnabai in 1967 and from the marriage, he has a son - Dhondiram and three daughters. The Plaintiff claims to have executed Will in favour of Dhondiram. Further, the Plaintiff has gifted certain property to Dhondiram and his wife Krishnabai. The learned trial Court observes that the share and interest of the Third Party shall be in jeopardy, if they are thrown out from the partition suit.

5. I am inclined to agree with the reasons recorded by the learned trial Court in its entirety.

6. The Third Parties, if it is proved that they are the children of the Plaintiff, have share in the Plaintiff's property from birth and there is no reason as to why at any stage of the proceedings, the Third Parties ought not to be impleaded as Defendants. Indeed, in the interest of effective adjudication and avoiding multiplicity of litigation, such a course is in the interest of all stake holders. There is no error in the order impugned.

7. The learned trial Court is requested to expedite and dispose of the suit within next 12 months considering that the suit is filed in 1976.

8. The Petition is disposed of.

(ROHIT B. DEO, J.)