

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 2772 of 2021

Mrs. Vishakha w/o Dinesh Shelke
aged about : 42 years
Occupation : House hold
R/O Saurabh Colony, near
Ram Mandir Parisar,
Post office V. M. V.
Amravati Tq. & Dist. Amravati.

... Petitioner

... Versus ...

- (1) Smt. Mrudula Prakash Patil
age 63 years Occ. House wife
- (2) Rushikesh Prakash Patil
aged 37 years
occupation : Medical Practitioner,
Both respondents 1 & 2
are R/o Plot No. 10,
Dattatray Nagar, Lohara,
Yavatmal Tq. & Dist. Yavatmal.
- (3) Sau. Prajakta Sujay Band
age 39 years Occ : private service
R/o Flat No. 201, Sukhkarta
Apartment, 42 Jiveshwar Colony
near water tank, Arjun Nagar,
Amravati Tq. & Dist. Amravati.
- (4) Vilas Dinkar Patil
aged : 74 years Occu : pensioner
- (5) Vijendra Vilas Patil
aged : 37 years Occ. Business
Respondents No. 4 & 5 are
R/o near Garden Glory
Circuit House Road Camp,
Amravati Tq. & Dist. Amravati.

Second address :-

103/104, Ist Floor, D Wing,
 Rachana Residency Camp
 Camp Amravati
 Tq. & Dist. Amravati.

... Respondents

 Mr. V. A. Kothale, Advocate for the petitioner
 Mr. P. S. Patil, Advocate for respondents 1 to 3
 Mr. M. Anilkumar, Advocate for respondents 4 and 5

CORAM : ROHIT B. DEO, J.

DATED : 21-2-2022

ORAL JUDGMENT

Rule. Rule made returnable forthwith. The petition is heard finally with consent of the learned counsel appearing for the parties.

2. In a suit for declaration, partition and separate possession instituted by Smt. Mrudula Prakash Patil and Rushikesh Prakash Patil, the petitioner, who is the daughter of defendant 1 Vilas Dinkar Patil, sought impleadment as defendant 3 on the premise that she is also a coparcener having share and interest in the ancestral property.

3. The applicant was right in so asserting. However, by the order impugned, her application is rejected. It is difficult to appreciate much less agree with the reasons recorded in the order impugned. However, lest there be any prejudice to any party, I refrain from making

any positive observation except to observe that the plaintiff certainly has a right to participate in the proceedings.

4. The order impugned is quashed.

5. Application, Exhibit 52 in Special Civil Suit 49/2019 is allowed and the plaintiffs are directed to implead the petitioner as defendant 3.

6. Considering the nature of controversy and the *inter se* relationship, the trial Judge is requested to proceed with the suit as expeditiously as possible.

7. The petition is disposed of.

JUDGE

wasnik