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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9445 OF 2023

Devidas Daulatrao Dadhale and Another PETITIONERS

VERSUS

Dropadabai Mukundrao Armal and Others RESPONDENTS

.....
Mr. P. S. Anerao, Advocate for the petitioners

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 29th AUGUST, 2023

ORDER :

1. The petitioners have challenged order dated 15th February, 2022 passed by learned 2nd Joint Civil Judge, Junior Division, Basmat, below Exhibit-62, thereby allowing objection filed by respondent No.7 under Order 21, Rule 97 of the Civil Procedure Code, in Execution Proceeding filed for execution of decree passed in Regular Civil Suit No. 122 of 2006.

2. In the Regular Civil Suit No. 122 of 2006, partition decree is passed. For execution of the said decree, RD No. 27 of 2012 is filed. In the said execution proceedings, respondent No. 7 has filed application Exhibit-62 under Order 21, Rule 97 of the Civil Procedure Code seeking inquiry and her addition as party in the

execution proceedings. It is contended by respondent No.7 that she is real sister of the decree holder and judgment debtors and she was not arrayed as party defendant in the partition suit. She has share in the ancestral property and, therefore, inquiry in this behalf is required to be conducted and she is necessary party.

3. The Executing Court, after hearing the parties, allowed the said application, thereby directing to add respondent No. 7 in the execution proceedings in the array of judgment debtors. The petitioners are aggrieved by this order.

4. Heard learned advocate for the petitioners. Perused the writ petition memo, annexures and the impugned order.

5. It is not disputed that respondent No. 7 is real sister of the decree holder and the judgment debtors. Admittedly, she was not arrayed as party defendant in Regular Civil Suit No. 122 of 2006. Partition was sought in respect of ancestral properties, wherein respondent No.7 also has share. Therefore, the Executing Court is justified in allowing her objection and directing the decree holder to add her as judgment debtor in the execution proceedings. Inquiry under Rule 97 of Order 21 of the Civil Procedure Code is necessary in respect of the rights of respondent No.7.

6. There is no illegality or perversity in the order impugned in the present petition. No case is made out by the petitioners to cause interference in the impugned order, in exercise of extraordinary writ jurisdiction. Writ petition being devoid of merit is dismissed. The inquiry is expedited.

[NITIN B. SURYAWANSHI]
JUDGE

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