

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

24 WRIT PETITION NO.12925 OF 2023

SHANTABAI BHIKAJI SHINDE AND OTHERS
VERSUS
SANGITA SANJAY RUDRAKSHE

...
Advocate for Petitioners : Adv. S. S. Jangada h/f Mr. Deshmukh
Sachin S.

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CORAM : S. G. MEHARE, J.
DATE : 18.10.2023

PER COURT :-

1. Heard the learned counsel for the petitioners.
2. The prayer for deleting the following issue was made.
However, the Court declined the prayer.

“Do defendants prove that plaintiff has no
relationship with them ?”

3. Learned counsel for the petitioners would submit that the primary burden was on the plaintiff to prove that she has relation with the defendants. The plaintiff had claimed to be the member of joint family property and was claiming interest in the ancestral property. The present petitioners have denied the said contention contending that they have no relationship

with the plaintiff. Section 101 of the Indian Evidence Act says that he who says has to prove the fact. Herein the case that defendants are saying that they have no relation with the plaintiff. Hence, burden is on them to prove.

4. In view of the pleadings of the defendants, the issue No.2 has been correctly framed. Defendants cannot shift their burden to prove the fact on the plaintiff.

5. There is no substance in the writ petition. Hence, dismissed at the admission stage.

(S. G. MEHARE, J.)

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vmk/-