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

**WRIT PETITION NO.12889 OF 2021**

1. Sambhaji Shivlingappa Kadge PETITIONERS  
Age – 57 years, Occ – Agri  
R/o Samarth Nagar, Kannad  
District – Aurangabad

2. Shivaji Shivlingappa Kadge  
Age – 70 years, Occ – Agri  
R/o Samarth Nagar, Kannad  
District - Aurangabad

VERSUS

1. Mangalabai Suresh Padalkar RESPONDENTS  
Age – 63 years, Occ – Household  
R/o 10-Haralkutir, Veershaiva Ho. So.,  
Chincholi Bandar Road,  
Malad (West) Mumbai – 64

2. Vimal Bapu Chandne  
Age – 73 years, Occ – Household  
R/o Near Rang Gauri, Sunanda Cycle Mart  
Dhule, District – Dhule

3-A Savita Vikas Kadge  
Age – 40 years, Occ – Household  
R/o Samarth Nagar, Kannad  
District – Aurangabad

3-B Jayesh Vikas Kadge  
Age – 23 years, Occ – Agri  
R/o Samarth Nagar, Kannad  
District – Aurangabad

3-C Rinku Vikas Kadge  
Age – 20 years, Occ – Education  
R/o Samarth Nagar, Kannad  
District – Aurangabad

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Mr. K. F. Shingare, Advocate for the petitioners  
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**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 5<sup>th</sup> SEPTEMBER, 2023**

**ORDER :**

1. By this petition, the petitioners challenge order dated 4<sup>th</sup> October, 2021 passed by learned Joint Civil Judge, Junior Division, Kannad below Exhibit-13 in Regular Civil Suit No. 79 of 2017, thereby dismissing the application filed by the petitioners – defendants, under Order 7 Rule 10 of the Civil Procedure Code, seeking return of the plaint to produce it before the proper Court, on the ground of pecuniary jurisdiction.

2. The respondents – plaintiffs have filed the suit for partition and separate possession. They have valued the suit in paragraph No.12 at Rs.6,400/- and the suit house is valued at Rs.9,26,174/-. The plaintiffs have claimed shares in the suit property. According to the defendants, the suit should have been filed in the Court of learned Civil Judge, Senior Division, Aurangabad, as the learned Civil Judge, Junior Division is not entitled to entertain the suit in respect of the property valuation of which is more than Rs.5 lakhs. It is therefore, contended that Civil Judge, Junior Division has no jurisdiction to entertain the

suit. On these contentions, application Exhibit-13 was filed by the petitioners – defendants.

3. The plaintiffs opposed the application by filing say contending that the application is filed to prolong the matter and the valuation of the house property is Rs.9,24,174/- and the plaintiffs have two fifth share in the house property and they have paid court fee on the valuation of their share i.e. Rs.3,70,470/- and as per law, suit should be valued as per the share in the property, therefore, correct valuation is made by the plaintiffs.

4. After hearing the parties, the Trial Court has rejected the application Exhibit-13. Hence, the present petition.

5. Heard learned advocate for the petitioners. Though served, none appears for the respondents. Perused the memo of the writ petition, documents annexed with the same and the impugned order.

6. Learned advocate for the petitioners assailed the impugned order by placing reliance on section 24 of the Civil Courts Act and Full Bench Decision of this Court in "**Kazi Sayyad Saifuddin V/s Kasturchand Abhayrajji Golchha**" 1999 (2) Mh.L.J.675 and "**Kunverji Nanji V/s State of Maharashtra**" LAWS (BOM)-1978-3-

**31.** According to him, since valuation of the "*subject matter*" of the suit property is Rs.9,24,174/- and as the Civil Judge Junior Division has jurisdiction to entertain the suit in respect of the property valuation of which is up to Rs.5 lakhs, as per section 24 of the Civil Courts Act, learned Civil Judge, Junior Division is not entitled to proceed with the suit and the plaint ought to have been returned to the plaintiffs.

7. It is clear from the record that there is specific pleading of the plaintiffs that valuation of the house property is Rs.9,24,170/- and they are claiming their one fifth share each i.e. total two fifth share and accordingly, they have made valuation of the house property to the extent of two fifth share at Rs.3,70,470/-, which is correct as per section 6 (vii) of the Maharashtra Court Fees Act. The plaintiffs are claiming possession on the basis of partition, therefore, valuation made by them appears to be correct.

8. In the impugned order, the Trial Court has recorded proper reasons, which cannot be faulted with.

9. Full Bench decision in "*Kazi Sayyad Saifuddin*" and the decision in "*Kunverji Nanji*" (*supra*) are distinguishable on facts and they do not support the case of the petitioners.

10. There is no illegality or perversity in the impugned order. No case is made out by the petitioners to warrant exercise of extraordinary writ jurisdiction to cause interference in the impugned order. Writ petition being devoid of merit is dismissed.

**[NITIN B. SURYAWANSHI]**  
**JUDGE**

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