

Nikita

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

WRIT PETITION NO.10884 OF 2023

Ashok Sitaram Sakore

... Petitioner

V/s.

Indu Rohidas Gaikwad and Ors.

... Respondents

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KAILAS
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Mr. V.A Shastry for the petitioner.

Mr. Sudhir Sadavarte for the Respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 5, 2023

P.C.:

1. The challenge in this petition under Article 227 of Constitution of India is to the refusal to frame additional issue of previous partition.

2. The respondent No.1, had filed suit for partition. According to petitioner who is original defendant No.2, defendant Nos. 1 and 6 have raised plea of previous partition. Therefore, the Trial Court was under obligation to frame issue of previous partition. On perusal of written statement of defendant Nos. 1 and 6 and in paragraph No.7, it is clear that the pleading raised is not sufficient to raise issue of previous partition. Therefore, the Trial Court was justified in rejecting the application.

3. There is no merit in the petition. The writ petition is therefore, dismissed. No costs.

(AMIT BORKAR, J.)