

AGK

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

WRIT PETITION NO.11016 OF 2023

ATUL
GANESH
KULKARNI
Digitally signed by
ATUL GANESH
KULKARNI
Date: 2023.09.06
17:47:44 +0530

Vimal Prakash Deshmane

... Petitioner

V/s.

Radhika Dhananjay Deshmane & Ors.

... Respondents

Mr. Ajit M. Savagave for the petitioner.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 6, 2023

P.C.:

- 1.** By this writ petition under Article 227 of the Constitution of India, the petitioner-original plaintiff is challenging order passed by the Trial Court in a suit for partition to add respondents as necessary party.
- 2.** Respondent Nos.4 to 10 has filed an application below Exhibit 18 claiming co-ownership in the suit property. The Trial Court based on genealogy by respondent Nos.4 to 10 allowed the application. Exception to the said order is taken by way of the present writ petition.
- 3.** On perusal of the impugned order, it appears that the Trial Court has recorded a prima facie finding about the rights of defendant Nos.4 to 10. However, such finding will not confer them rights in the suit property unless the material produced in the suit

indicates their right over the suit property during trial of the suit. Therefore, such order does not affect rights of the petitioner.

4. It is made clear that the Trial Court shall decide at the time of final hearing of the suit as to whether defendant Nos.4 to 10 are entitled to claim rights over the suit property, or not.

5. With this clarification, the writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)