

VRJ

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

**WRIT PETITION NO.5024 OF 2015
WITH
CIVIL APPLICATION NO.39 OF 2022
IN
WRIT PETITION NO.5024 OF 2015**

Ananda Laxman Bhosale
Since Deceased Through Legal Heirs ... Petitioner
V/s.
Govind Laxman Bhosale & Ors. ... Respondents

Mr. Sumedh Modak i/by Mr. Vijay Killedar for the
petitioner.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 28, 2024

P.C.:

1. The petitioner judgment debtor in a suit for partition is challenging order passed by final decree Court thereby appointing Court Commissioner in respect of one house property.

2. According to the petitioner, the partition decree is in respect of multiple house properties. However, the respondents have restricted their application to one property. The principle that the person should include all joint family properties apply to suit and not to final decree proceeding. It is choice of the decree holder in respect of which property he wants partition or in respect of which property he wants partition. If the decree holder chooses to restrict

his claim to only one house property, decree holder cannot object for such exercise of jurisdiction. There is no illegality in the impugned order. The writ petition is disposed of.

3. At this stage, learned advocate for the petitioner sought liberty to file final decree proceeding in relation to property which is exclusively in possession of the plaintiff. The petitioner is at liberty to file final decree proceeding subject to law of limitation and if otherwise permissible in law.

4. All pending interlocutory applications stand disposed of.

(AMIT BORKAR, J.)