



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 5928 of 2022

[Rangrao Pimpalkar and ors. ..vs.. State of Maharashtra through the Collector, Akola and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Z. Z. Haq, Advocate for the petitioners
Ms. S. N. Thakur, AGP for respondent nos. 1 to 3
Mr. S. J. Kadu, Advocate for respondent nos. 5 to 8
Dr. (Mrs.) R. S. Sirpurkar, Advocate for respondent no. 9

CORAM : ANIL L. PANSARE J.

DATED : 08-08-2024

Heard.

2. The challenge is to order dated 27-06-2022 passed below Exhibit 15 by the Joint Civil Judge Senior Division, Akola in Regular Civil Suit No. 120/2022.

3. The respondent no. 9 has filed the suit seeking declaration that he is exclusive owner of the suit property, which is agricultural land. The petitioners had filed application under Order I Rule 10 of the Code of Civil Procedure seeking addition as necessary parties to the suit on the ground that suit property is an ancestral property and further that they are real sisters of respondent no. 9. The trial Court has observed that the petitioners have right to claim partition and will get their respective shares in the suit property. Their presence, however, is not necessary because respondent no. 9 is seeking exclusive ownership over the suit property.

4. The finding is apparently erroneous, if the petitioners are entitled to claim partition, they would be necessary party, when the respondent no. 9 is seeking

declaration of exclusive ownership over the suit property. The trial Court failed to recognize that if the respondent no. 9 is held exclusive owner of the suit property, the petitioners will not be entitled to seek partition.

5. The order impugned is, therefore, unsustainable. The petition is accordingly allowed.

6. The order dated 27-06-2022 passed below Exhibit 15 by the Joint Civil Judge Senior Division, Akola in Regular Civil Suit No. 120/2022 is quashed and set aside. The application, Exhibit 15 is allowed.

7. Respondent no. 9 shall add petitioners as party defendants. The trial Court shall thereafter proceed with the suit and decide it in accordance with law.

(Anil L. Pansare, J.)