



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

WRIT PETITION NO. 8976 OF 2024

Janabai Geetaram Kale
Age: 55 years, Occ.: Agri,
R/o: Chaas, Tq. & Dist. Ahmednagar

.....PETITIONER
(Ori. Defendant No.13)

VERSUS

1. Savita Bhausahab Walunj
Age: 38 years, Occu. Household,
R/o Walunjvasti, Chaas,
Tq. & Dist. Ahmednagar.
2. Bhausahab Khemaji Kale (Died)
(Deleted as per this Court order dated 19.09.2024)
3. Vikas S/o Bhausahab Kale
Age: 34 years, Occu. Agri. & Driver
4. Jijabai Bhausahab kale
Age: 59 years, Occu.: Agri.
Both are R/o Kale Gondalvasti,
Chaas, Tq. & Dist. Ahmednagar.
5. Manisha Sopan Walunj
Age: 36 years, Occu. Household,
R/o Walunjvasti, Chaas,
Tq. & Dist. Ahmednagar.
6. Manda Bhausahab kale
Age: 54 years, Occu. Household,
R/o Kale Gondalvasti,
Chaas, Tq. & Dist. Ahmednagar.
7. Ramesh S/o Bhausahab kale,
Age: 39 years, Occu. Labour,
R/o Kale Gondalvasti,
Chaas, Tq. & Dist. Ahmednagar.

8. Vandana Dada Aauti,
Age: 36 years, Occu.: Household,
R/o Kanherwada, Tq. Parner,
Dist. Ahmednagar.
9. Sundarabai Khema Kale,
Age: 79 years, Occu.: Household,
10. Sahebrao Khema Kale,
Age: 64 years, Occu: Agri.,
11. Sarjerao Khema Kale,
Age: 62 years, Occu.: Agri.,
Resp. No.9 to 11 are R/o Kale Gondalvasti,
Chaas, Tq. & Dist. Ahmednagar.
12. Bajirao Khema Kale
Age: 67 years, Occu.: Agri,
R/o. Behind Shivsagar Kirana Stores,
Kedgaon, Ahmednagar, Dist. Ahmednagar,
13. Mangal Bajirao Kale,
Age: 47 years, Occu.: Agri. & Household,
R/o Sushant Nagar, Kedgaon, Ahmednagar,
Tq. & Dist. Ahmednagar.

.....RESPONDENTS

(Resp. No.1 is Ori. Plaintiff
where resp. Nos.2 to 13 are
Ori. Defendant Nos.1 to 12)

Mr. A. A. Nimbalkar, Advocate for the Petitioner
Mr. V. S. Bedre, Advocate for Respondent nos.1, 3 to 5

CORAM : ROHIT W. JOSHI, J.

DATED : 08TH AUGUST, 2025

ORAL JUDGMENT :-

. This is a petition filed by the original defendant no.13, whose application for permission to file additional written statement under Order VIII, Rule 9 of CPC filed vide Exhibit 132 in Regular Civil Suit No.180 of 2019, came to be rejected by the learned 10th Joint Civil Judge, Senior Division, Ahmednagar vide order dated 03.05.2024.

2. The learned Counsel for the petitioner states that although, the application was filed at the stage when the suit was fixed for final arguments, the petitioner had found a registered document of partition of the year 1960, about which she was not aware when the written statement was filed and the evidence was led. The predecessors of both branches of the family are parties to the registered partition of the year 1960. The document therefore may have relevance on the controversy involved in the suit.

3. The learned Trial Court has rejected the application observing that the petitioner did not offer any explanation as to why she could not peruse the revenue record and gather knowledge about the said partition. There is a registered

document of partition in the family. Just as a defendants should have been vigilant about the document, it was equally necessary for the plaintiffs also to speak about the document if they were aware about the same. Even if they were not aware about the 1960 partition, if there is a registered document of partition in the family, may well be relevant for adjudication of the suit. In order to have controversy between the parties settled fully and finally, it is necessary that the petitioner should be granted opportunity to incorporate pleadings with respect to the said document and lead evidence with respect to the same, if the same is prima facie found to be relevant.

4. Having said so, it must also be mentioned that the application is filed at the stage when the matter was posted for final arguments. The depositions of witness and other witnesses are not available for perusal of this Court. Even otherwise, at this stage, it may not be desirable for this Court to hold an enquiry into the other evidence on record. It will be appropriate to direct the learned Trial Court to decide the application afresh having regard to the contents of the document and pleadings and other evidence on record, by giving primacy to the relevance of the said document.

5. With these observations, the Writ Petition is partly allowed.

a) Order dated 03.05.2024 passed by Hon'ble 10th Joint Civil Judge, Senior Division, Ahmednagar, at Exhibit 132 In Regular Civil Suit No.180 of 2019 is quashed and set aside.

b) The learned Trial Court is directed to decide the said application afresh in the light of other evidence and material on record having regard to the relevance of the document with respect to which additional written statement is filed.

6. Civil Application, if any, stands disposed of.

(ROHIT W. JOSHI, J.)