



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10246 OF 2024

Rekhabai Kalayandas Chichiya Bhatiya Died Thr Lrs
Sharda Mangaldar Ramaiyya And Others

VERSUS

Rajendra Ratanlal Asar And Others

- Mr. N. D. Sonavane, Advocate for the Petitioner
- Mr. Rahul Joshi, Advocate for the Respondent No. 5

CORAM : R. M. JOSHI, J

DATE : MAY 05, 2025

PER COURT :

1. This Petition takes exception to the impugned order dated 10.07.2024 passed below Exh. 114 in Special C.S. No. 33/2018 whereby application filed by Plaintiff under order I, Rule 10(2) of Code of Civil Procedure for adding wife of the Defendant No. 14 as party to the suit came to be rejected.

2. Plaintiff filed suit for declaration and partition. It is alleged by Plaintiff that during the pendency of the suit, in the year 2011 Defendant Nos. 13 and 14 purchased the suit property and therefore, they were added as party Defendants. It was further revealed that Defendant No. 14 sold the suit property to his wife – Mangalabai in the year 2013. In this

backdrop, application Exh. 114 came to be filed on 06.01.2024.

3. This application came to be opposed by Defendant No. 14 on the ground of maintainability so also on the ground that in the written statement filed on 21.11.2016 this fact was already made known to the Petitioner/Plaintiff and in spite of the same, application has been filed belatedly.

4. Learned Trial Court rejected the application essentially on the ground that in the year 2016 itself it was within the knowledge of the Plaintiff that there is a transfer of suit property by Defendant No. 14 in favour of his wife.

5. Heard learned Counsels for both sides.

6. Admittedly, the transfer of subject property is *pendente lite*. Thus any decree passed in favour of Plaintiff would bind the purchaser. Purchaser is not necessary or proper party to the decision of the suit. As such, rejecting of application Exh. 114 cannot be faulted with. Hence, Petition stands dismissed.

(R. M. JOSHI, J.)