



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 WRIT PETITION NO. 11545 OF 2025

SHIVAJI KHELBA GADAKAR

VERSUS

BHAIRAVNATH MADHUKAR GADKAR

...

Advocate for the Petitioner : Mr. Shaikh Shoyab Mohammad Israil

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CORAM : ARUN R. PEDNEKER, J.

DATE : 23.09.2025

PER COURT:

1. Heard.

2. By the present petition, the petitioner challenges the order passed below Exhibit-130, wherein the application filed by the petitioner to frame additional issue is rejected. The petitioner filed application at Exhibit-130 to frame additional issue, as under:

“ Whether suit is barred by the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ?”

3. The perusal of the record indicates that the suit is for partition and that the issue as regards, whether at partition whether there could be infringement of the fragmentation act would depend upon passing of the preliminary decree in partition while adjudicating the partition if it is found that further fragment cannot be created then further procedure as contemplated under

the Act has to be undertaken by the authorities constituted under the Act and for that purpose separate additional issue is not required.

4. I see no error in the impugned order passed by the trial court; as the issue of fragmentation would only arise after the passing of preliminary decree the procedure as contemplated under the Act can be followed to prevent the fragmentation, if any.

5. Considering the same with the above observations, the Writ Petition stands disposed of.

[ARUN R. PEDNEKER, J.]

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