



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 WRIT PETITION NO. 11 OF 2022

Sunanda Kumar Bhande

VERSUS

Chingubai Baburao Gangthade and Others

- ...
- Mr. I. K. Wagh h/f.Mr. Sakhare Shubham Sakharam, Advocate for the Petitioner
 - Mr. S. V. Natu, Respondent Nos. 1 to 5, Advocate for Respondents
- ...

CORAM : ROHIT W. JOSHI, J.

DATE : JUNE 25, 2025

ORDER :

1. The present petition is filed by original defendant no. 1 in Special Civil Suit No. 38 of 2015. The said suit is filed by stepmother and stepsisters of the petitioner - original defendant no. 1. Defendant Nos. 2 and 3 are also stepsisters of defendant no. 1 - petitioner while defendant no. 4 is son of defendant no. 2. The suit is for reunion and partition of ancestral property.

2. In this suit, defendant on. 2 filed an application for transposition of her name as plaintiff. The said application, filed vide 'Exhibit 88', came to allowed by the learned Trial Court vide order dated 23.10.2021. This order of transposition is impugned in the present petition by defendant no. 1 - petitioner.

3. The contention of the learned advocate for the petitioner is that as the original plaintiffs had made allegations against defendant no. 2 in the plaint, it is not appropriate for the learned Trial Court to permit transposition of defendant no. 2 as a plaintiff.

4. It is well-settled that although arrayed as plaintiff and defendants, every party is a plaintiff and every party is a defendant in a suit for partition in the sense that even defendants have right to relief of partition and separate possession in such a suit. In that view of the matter, the order passed by the learned Trial Court permitting transposition of name of defendant no. 2 as plaintiff cannot be faulted.

5. As regards the allegations levelled against defendant no. 2 in the plaint, the learned counsel for defendant no. 2 (transposed plaintiff) draws attention to order dated 23.04.2024, whereby the plaint is amended to delete the allegations levelled against defendant no. 2 (transposed plaintiff). Admittedly, the said order has not been challenged by the present petitioner - defendant no. 1.

6. That apart, original plaintiff no. 1 is the mother of plaintiff no. 2 and defendant nos. 2 & 3. Defendant no. 1 is the stepdaughter of plaintiff no. 1 and stepsister of plaintiff no. 2 and original defendant nos. 2 & 3. Therefore, by transposition of name of defendant no. 2 as plaintiff no. 3, the nature of suit will not be altered, inasmuch as earlier suit was

filed by a mother & her daughter and after transposition it will be a suit by a mother and her two daughters.

7. As regards, the allegations originally made against defendant no. 2, the same are now deleted by allowing the application for amendment. In any case the contentions that are available to defendant no. 1 on merits of the matter will continue to be available to her even after transposition.

8. In view of the above, no case is made out for interference with the impugned order.

9. The writ petition is **dismissed** with no order as to costs.

[ROHIT W. JOSHI, J.]