



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

**WRIT PETITION NO. 7318 OF 2025**

SHEELABAI JAGAN RATHOD AND OTHERS  
VERSUS  
PRAHLAD BHAUSINGH RATHOD AND OTHERS

...  
Mr. Baig Mirza Mazhar Javed, Advocate for the Petitioners.  
...

**CORAM : S. G. CHAPALGAONKAR, J.  
DATED : 24<sup>th</sup> JUNE, 2025.**

**P.C.:-**

1. The petitioners impugn order dated 15.01.2025 passed by Civil Judge Junior Division, Paithan in Regular Civil Suit No.31/2009 below Exhibit-147.
2. The petitioners sought their impleadment as party in suit by filing application under Order I Rules 8(a) and 10 of Code of Civil Procedure. Apparently, suit for partition and separate possession of land Gut Nos.88/23 and 84/49 situated at village Porgaon Tanda is filed by father of petitioners and his uncle against others.
3. The Trial Court observed that in Hindu Law shares are divided by principle of per branch and not per capita. The branch of petitioners is represented through their father i.e. plaintiff no.2. Therefore, in suit for partition between father of petitioners and their brothers, presence of petitioners i.e. son and wife of plaintiff no.2 would not be necessary. They would get their right only after partition between plaintiffs i.e. father and his brother.

4. It is trite that impleadment of party can be permitted only when presence of such party is absolutely necessary for passing decree or adjudication of dispute in suit. In this case, it is apparent that petitioners are neither necessary nor proper parties and their presence is absolutely irrelevant for the purpose of decision in suit.

5. In that view of the matter, there is no fault in impugned order pass by Trial Court. Hence, Writ Petition stands dismissed.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**

Devendra/June-2025