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912 CRA NO. 202 OF 2025

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

912 CRA NO. 202 OF 2025

ABHAY S/O ARUN DAITHANKAR

VERSUS

ADITYA S/O ABHAY DAITHANKAR AND OTHERS

...

Mr. R. R. Deshpande h/f. Ms. P. R. Deshpande, Advocate for the Petitioner

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CORAM : AJIT B. KADETHANKAR, J.

DATE : 26.09.2025

PER COURT :-

1. Mr. R. R. Deshpande, learned counsel for the petitioner submits that it is trite law that property bequeathed by a Hindu person to another Hindu person by a will deed can never be termed as a joint family property or ancestral property so as to enable the dependent of the person in whose name such will deed was made to seek partition and separate possession.

2. Mr. Deshpande, learned counsel for the petitioner has taken me through paragraph Nos.3 and 5 in RCS No.804/2022. Mr. Deshpande would point out the pleadings of the plaintiffs that the subject matter suit property has been bequeathed by the father of original defendant no.2 to all the defendants. Mr. Deshpande would further submit that the suit is filed by the plaintiffs who happens to be sons of defendant no.1 and as such the subject

matter property could not have been made as a subject matter for partition and separate possession as is prayed in the civil suit. Secondly Mr. Deshpande, would also point out that it is a trite law that such bequeathed property unless is partitioned in between the defendants particularly amongst the defendants, no right in favour of sons of such defendants is accrued in their favour to enable the decree as prayed for.

3. Issue notice to the respondents, returnable on 16.10.2025. Further proceedings in RCS No.804 of 2025 pending in the Court of learned Civil Judge, Senior Division, Latur shall be stayed till the returnable date.

4. The petitioner is permitted to serve the respondents by all permissible private modes of service and to file an affidavit of service in that regard.

5. The matter be listed after service of notice is complete. In the meantime, petitioner shall take recourse to the provisions enumerated in Chapter II of the Bombay High Court Appellate Side Rules, corresponding to the stage and requirement of matter.

[AJIT B. KADETHANKAR, J.]