

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14896 OF 2025

Narayan Ananat Adhikari ...Petitioner

Versus

Yogita Yadneshwar Raul and ors. ...Respondents

Mr. Pratik Rohade, a/w Sarthak Diwan, for the Petitioner.
Mr. A. C. Bhadang, AGP for the State.

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CORAM: N. J. JAMADAR, J.
DATED: 20th NOVEMBER, 2025

Oral Order:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 26th August, 2025 passed by the learned Civil Judge, Palghar, whereby an application preferred by the petitioner – defendant No.1 for framing additional issues, namely, whether the plaintiffs prove that the plaintiffs have included all the joint family properties in, and impleaded the co-sharers as necessary parties to, the suit, and whether the suit is barred by law, came to be rejected.
3. The learned Counsel for the petitioner submitted that, in the written statement, the petitioner had specifically raised ground of non-inclusion of all the joint family properties, that

the plaintiff had no right to institute the suit during the lifetime of father and non-joinder of the necessary parties. Yet, the issues were not settled. By the impugned order, the learned Civil Judge has decided the issue of non-joinder of necessary parties on merits, instead of framing the issue. It was further submitted that in view of the specific contention that the plaintiffs were not entitled to seek the partition, the issue of suit being barred by law ought to have been framed.

4. The learned Civil Judge was of the view that the plaintiff has included all the properties by carrying out amendment in the plaint. Thus, the prayer to frame an issue about the maintainability of the suit for not bringing all the joint family properties in the common hotchpot, was not sustainable. Secondly, after perusal of the record of rights, the learned Civil Judge held that the issue of non-joinder of necessary parties was also not required to be framed. As regards the tenability of the suit for partition, during the lifetime of the father of the plaintiff, the learned Judge held that the said issue would be covered by issue No.2, which has been framed by an order dated 15th October, 2024.

5. The view of the learned Civil Judge appears to be correct. The controversy as regards non-inclusion of all the properties in

the common hotchpot did not survive as the plaintiff amended the plaint so as to include all the properties, which were allegedly not brought in the common hotchpot. The question as to whether the plaintiffs are entitled to partition or not would be squarely covered by issue No.2 framed by the trial Court by order dated 15th October, 2024. As far as the ground of non-joinder of necessary parties, if it could be established at the trial that the necessary parties are not joined, the plaintiffs would suffer the consequences.

6. In that view of the matter, this Court does not find any justifiable reason to interfere with the impugned order.

7. The petition stands dismissed.

[N. J. JAMADAR, J.]