



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No.3598 OF 2024

(Suresh Ramdas Sontakke Vs. Ambadas Suryabhan Sontakke (dead), through legal heirs
Narayan Ambadas Sontakke)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. P.K. Mohta, Advocate for petitioner.

Mr. A.S. Thotange, Advocate for respondent No.1.

CORAM : **R.M. JOSHI, J.**

DATE : **18th JUNE, 2025.**

1. It is often seen that the unscrupulous litigant take the shelter of filing of the proceeding in order to cause harassment to the other side and to burden the judicial system with false/frivolous cases. Here is the one example of such nature of litigation.

2. Heard learned counsel of both sides substantially.

3. Admittedly the suit filed by the plaintiff is for partition and separate possession being Regular Civil Suit No.81/2018. The pleadings as well as the evidence which is placed before this Court indicates that there is no dispute about the fact that Solankha is the sister of original plaintiff and original defendant. Irrespective of fact that defendants claim previous partition, the suit remains for partition and after the amendment to the Hindu Succession Act the sister of original plaintiff and original defendant would become coparceners and she, therefore, is a necessary party to the suit.

4. In spite of this admitted position neither the plaintiff

nor the defendants took steps to join her as a party defendant. It was the trial Court on considering admitted facts and position of law pass order below Exh.1 dated 5th April 2024 to join her heirs as a party to the suit. The defendant is challenging this order. This challenge is nothing less than abuse of process of law.

5. As far as order passed below Exh.-49 dated 17th February, 2023 is concerned, admittedly after passing of this order defendant had filed application for amendment to the written statement. This indicates that defendant was conscious of the fact that the contentions sought to be placed on record vide Exh.-49 could only be done by making an application for amendment to the written statement. In spite of this, the petition has been filed taking exception to the order in question.

6. When Court finds that the litigation is not bona fide and other side is intentionally dragged into the said litigation, it would be duty of the Court to deal with such litigant strictly. This Court, therefore, has no hesitation to hold that this petition filed by the defendant is abuse of law. Petitioner was given an option for withdrawal of the petition, he however seeks order.

7. Hence, the petition is dismissed with costs of Rs.5,000/- payable to Matoshree Old Age Home at Adasa Sonpur, District Nagpur within four weeks.

(R.M. JOSHI, J.)