

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1551 OF 2025

Subhash Bajirao Gursal And Others

VERSUS

Rajendra Subhash Gursal And Others

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Advocate for the Petitioners : Mr. Kadam Vikram Sahebrao

Advocate for Respondent No.1 : Mr. Swapnil Joshi i/b J.P. Legal
Associate

Advocate for Respondent No.2 : Mr. Sanket Kulkarni

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JANUARY 22, 2026

PER COURT :-

1. The petitioners/defendants impugn order dated 09.01.2025 passed below Exhibit-124 by Civil Judge Senior Division, Kopargaon in R.C.S. No.34 of 2015, whereby the application for impleadment filed by respondent no.2 is allowed.

2. The respondent no.1 instituted the suit for partition and separate possession of ancestral property. The defendant no.1 is father of plaintiff. The plaintiff is son of respondent nos.1 and 2. in that suit, respondent no.2 was not added as party. However, at the time when suit reached to final stage, respondent no.2 filed an application under Order 1 Rule 10 of Civil Procedure Code seeking her impleadment in suit. The Trial Court allowed said application vide impugned order. Hence, this writ petition.

3. Mr. Kadam, learned advocate appearing for petitioners would submit that application for impleadment ought to have been

rejected, as it was filed at fag end of trial. Secondly, respondent no.2 – Parubai had also relinquished her rights in ancestral property and for purpose of decision in suit, her presence is not necessary.

4. Per contra, learned advocates appearing for respondent no.1 and respondent no.2 supports the impugned order.

5. Undisputedly, the suit is filed for decree of partition and separate possession. It is trite that in case of partition between father and son, the mother gets equal right. In that view of matter, if mother was not added as party, the suit could have suffered from non-joinder of necessary party. Looking to relationship between the parties and nature of suit, the impleadment of respondent no.2 as party in suit is absolutely legal and proper. The Trial Court after considering relevant factual aspects of matter and legal position has rightly ruled ultimate impleadment of respondent no.2 in suit in light of provisions under Rule 10 (2) of Order 1 of Civil Procedure Code.

6. Needless to state here that all objections and contentions regarding right of respondent no.2 in suit property would be open for adjudication during course of trial. The petitioners can agitate the same and Trial Court would be under obligation to consider the same and render its decision on its own merit.

7. In that view of matter, writ petition sans merits. Hence, rejected.

(S.G. CHAPALGAONKAR, J.)