

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

WRIT PETITION NO. 10928 OF 2019

**SAGAR SURESH PAWAR AND OTHERS
VERSUS
PRATIBHA SAGAR PAWAR**

...
Advocate for the Petitioners : Shri N. B. Jadhav

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 31st AUGUST, 2019.

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PER COURT :

1. The petitioners are aggrieved by the order dated 23/04/2019 passed by the learned Judge, Family Court Osmanabad, vide which, application Exhibit 41 filed by the sole respondent / original applicant, has been allowed and Sarita, sister of petitioner No.1 and daughter of petitioner Nos. 2 and 3, has been added as a respondent in the said proceedings. The petitioners are the original defendants and Sarita has not approached this Court for challenging the impugned order.

2. The contention of the petitioners is that petitioner No.2 Suresh has executed a gift deed in favour of his daughter

Sarita. By virtue of the said gift deed, a parcel of land has been transferred in the name of Sarita. This was done on 06/02/2016 and the original applicant preferred her petition before the learned competent Court on 03/05/2016. The grievance raised is that if the suit was filed later, the applicant should have mentioned the details about the gift deed and should have arrayed Sarita as a respondent. Now, at the stage of recording of oral evidence and after about 3 years, Sarita is sought to be arrayed as a respondent.

3. I find from the record that the original applicant is the estranged wife of petitioner No. 1 Sagar. According to her, she has been driven out of her marital home by her husband and her in laws, who used to physically and mentally torture her. Having been shunted out of the marital home on 05/08/2015, it is obvious that she would not get any knowledge about the gift deed dated 06/02/2016. After she filed application Exhibit 41 seeking leave to add Sarita, that petitioner No.2 admitted, in the written say to Exhibit 41, that such a gift deed has been executed.

4. I find that the Trial Court has rightly concluded that if the original applicant is found entitled for maintenance and if the said maintenance is charged on the properties of the husband and the parents in law, there is a possibility that the share passed on to Sarita could be subjected to such an order. Such an order would be ineffective if Sarita is not added as a respondent.

5. In the light of the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-