

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2685 OF 2015

Smt. Malan Shrirang Patil and others

.. Petitioners

Versus

Shri. Prabhakar Dadu Yadav and another

.. Respondents

Shri. Sandesh D. Patil, for the Petitioners.

CORAM : R.M. SAVANT, J.

DATE : 20th AUGUST, 2015

PC.

1. The challenge is two orders i.e. the order dated 04.12.2010 passed on the application being Civil Misc. Application No.4 of 2006 and the order dated 28.11.2014 passed on Application Exh.21 for bringing the heirs of the Defendant No.1 on record.

2. In so far as the first application is concerned, by the said application, the Respondent Nos.1 and 2 herein were seeking restoration of the suit which was dismissed for default on 07.11.2005 and for seeking condonation of delay in filing the application. The said application has been allowed by the first impugned order dated 04.12.2010 and the suit was accordingly restored to file. The said order is being challenged by the above Petition which has been filed in the year 2014. Hence, apart from

the delay in raising challenge to an order passed as long back as on 04.12.2010, but also having regard to the reasons mentioned in the impugned order, no case for interference with the same is called for.

3. In so far as the challenge to the order dated 28.11.2014 is concerned, by the said order the Application Exh.21 to bring the heirs of Defendant No.1 on record has been allowed. The same is allowed on the ground that the suit having been dismissed and thereafter restored, the original Plaintiffs did not have an opportunity to bring the heirs on the Defendant No.1 on record earlier. In my view, having regard to the reasons mentioned in the impugned order dated 28.11.2014, no case for interference in the Writ Jurisdiction of this Court is therefore made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]