

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

WRIT PETITION NO.11832 OF 2013

Shri. Sayyed Masroor Ghor

(Since deceased through his legal heirs)

Smt. Bilquies Sayyed Ghor and others

.. Petitioners

Versus

Shri. Purushottam Tahilram Rohira and others

.. Respondents

Shri. S. V. Pitre, for the Petitioners.

Ms. Geeta Mulekar, for the Respondent No.3.

CORAM : R.M. SAVANT, J.

DATE : 2nd SEPTEMBER, 2015

PC.

1. By an order passed today in Civil Application No.2093 of 2015 the heirs of Respondent No.1 are allowed to be brought on record. With the consent of the Learned Counsel for the parties the Writ Petition is taken up for hearing as to admission.

2. The rejection of the application Exh.60 filed by the Petitioners i.e. Proponents of the said application under Order 21 Rule 97 CPC by the impugned order dated 19.10.2013 passed by Civil Judge Junior Division, Karjat, District Raigad is taken exception to by way of the above Petition. The said application has been rejected on the ground that whether the

application filed by the objectors i.e. the Petitioners herein is maintainable, whether the decree passed in Special Civil Suit No.81 of 1988 is binding upon them would be the issues which would be tried whilst adjudicating the said application under Order 21 Rule 97 of the CPC. In view of the said observation made by the Trial Court, it is not necessary to interdict with the impugned order. The Writ Petition is accordingly dismissed. However, it is expected of the Executing Court that it would address the issues which have been mentioned in paragraph 4 of the impugned order whilst adjudicating the said application Exh.47. The hearing of the application Exh.47 is expedited.

[R.M. SAVANT, J]