

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

WRIT PETITION NO. 11073 OF 2016

Utkarsh Anantrao Holikar
and others

.. Petitioners

Versus

Marotirao Ramchandra Saudagar
and others

.. Respondents

Shri Rajiv B. Deshmukh, Advocates for Petitioners.

CORAM : S. V. GANGAPURWALA, J.

DATE : 06TH DECEMBER, 2016.

PER COURT :

. The order substituting the present respondent No. 1 in place of original plaintiff No. 1(2) is assailed in the present writ petition.

2. Mr. Deshmukh, the learned counsel for petitioners submits that, provisions of Order XXII Rule 10 of the Code of Civil Procedure are inapplicable in the present case. There was no devolution of rights in favour of substituted plaintiff No. 1(2). The learned counsel further submits that, tenor of the application filed by petitioners would show that, the same is filed invoking Rule 17 of Order VI of the C. P. C. However, the Court has exercised powers under Order XXII Rule 10 of the C. P. C.

The same is erroneous and illegal. The learned counsel further submits that, the deed on which the party is relying is dated 04th July, 2013 and the application has been made in the year 2014. Said aspect of delay has not been considered.

3. I have considered the submissions canvassed by the learned counsel for petitioners. It is alleged by the party filing the application to substitute himself in place of plaintiff No. 1(2) that, the deed has been executed on 04th July, 2013 and the interest in the suit property has been transferred to him. Order XXII Rule 10 of the C. P. C. applies to transfers, assignments, devolution of rights during pendency of suit. The powers U/O XXII Rule 10 of the C. P. C. have been exercised by the learned Trial Judge in plausible manner.

4. In the light of the above, no case for interference is made out. The writ petition is disposed of. No costs.

[S. V. GANGAPURWALA, J.]