

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

**CIVIL APPLICATION NO.2713 OF 2016
IN
WRIT PETITION NO.415 OF 1998**

Yojana Sachindanand Joshi and anr : Applicants/Interveners

In the matter between

Arvind Krishna Navale and ors. : Petitioners

versus

Bhagwan Bhau Navale

deceased through his heirs

Balasaheb Bhagvan Navale and ors. : Respondents.

Mr. B G Tangsali i/by Mr. B H Goswami for the Applicants.

Mr. P R Arjunwadkar for the original Petitioners.

Mr. A B Borkar for the Respondent No.1.

CORAM : R. M. SAVANT, J.

DATE : 28th November 2016

P.C.

1 The above Civil Application has been filed by the Applicants to bring themselves on record in place of the original Respondent No.3. The dispute in question is as regards the claim of tenancy under the Bombay Tenancy and Agricultural Lands Act, 1948 between the Petitioners and the Respondent No.1. The Respondent No.3 is the original landlord of the land in question against whom no reliefs are sought in the above Petition. The Respondent No.3 in that sense is a formal party. The Applicants as indicated above are the heirs of the original Respondent No.3.

2 The learned counsel appearing on behalf of the Respondent No.1 would contend that where an application is required to be filed under Order XXII Rule 4 of the Code of Civil Procedure in such a case an application under Order I Rule 10 of the Code of Civil Procedure cannot be filed and seeks to rely upon the judgment of the Division Bench of this Court reported in 2013(4) Mh.L.J. 403 in the matter of Madhukar Ramchandra Keni v/s. Vasant Jagannath Patil and ors.

3 Assuming the position to be so, but having regard to the fact that the original Respondent No.3 in the context of the challenge is only a formal party, rather than being technical, this Court deems it appropriate to allow the above Civil Application filed by the Applicants so that the hearing of the above Petition which is of the year 1998 can proceed. The above Civil Application is accordingly allowed. Resultantly, the Applicants are allowed to bring themselves on record as the heirs of the Respondent No.3. The learned counsel for the Petitioners to amend the above Petition within a period of two weeks from date. List the above Petition for final hearing in the first week of January 2017. The above Civil Application is accordingly disposed of.

[R.M.SAVANT, J]