

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

WRIT PETITION NO. 12045 OF 2015

1. Kishan Annadev Joshi
Age: 67 years, Occu.: Agri.,
R/o Rampuri (Bk.), Tq. Manwath,
Dist. Parbhani.
2. Keshav Annadev Joshi
Age: 62 years, Occu.: Service,
R/o Mali Galli, Parbhani,
Tq. & Dist. Parbhani.
3. Sindhu Madhavrao Wadgaonkar
Age: 59 years, Occu.: Household,
R/o At Post Mangarul, Tq. Manwath,
Dist. Parbhani.
4. Suman Devidasrao Kulkarni
Age: 55 years, Occu.: Household,
R/o Shivaji Chowk, Cidco, Nanded.
5. Shobha Milind Deshpande
Age: 51 years, Occu.: Household,
R/o Anand Nagar, Karegaon Road,
Parbhani.
6. Vimal Ashokrao Vaidya
Age: 49 years, Occu.: Household,
R/o As above.
7. Sow Sakhubai Prabhakararrao Joshi
Age: 64 years, Occu.: Household,
R/o Ravrajur, Tq. Gangakhed,
Dist. Parbhani.

..PETITIONERS

VERSUS

1. Sow. Manorama Govindrao Joshi
Age: 62 years, Occu.: Household,
R/o Balaji Lane, Manwath,
Tq. Manwath, Dist. Parbhani.

2. Gayabai Dattopanth Shastri
Age: 72 years, Occu.: Household,
R/o Manglmurti Nagar, Parbhani,
Tq. & Dist. Parbhani.

..RESPONDENTS

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Mr. P.N. Kalani, Advocate for petitioners.
Mr. A.S. Deshpande, Advocate for Respondent No.1.
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CORAM : S.B. SHUKRE, J.
DATED : 20th MARCH, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally by consent of the contesting parties.

2. In an application filed for rejection of claim under Order 7 Rule 11 of the Code of Civil Procedure, what is relevant is only the averments made in the plaint and not the submission made elsewhere. The averments made in the plaint do not show that the suit is barred by law. Therefore, the impugned order cannot be said to be perverse. There is no merit in the said writ petition and it deserves to be dismissed with costs.

3. Writ petition stands dismissed with costs. Rule is discharged. However, liberty is given to the petitioners to file fresh application for framing of preliminary issue and if it is filed, same shall be considered in accordance with law.

(S.B. SHUKRE, J.)

SSD