

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10940 OF 2017
(Rupsing Shankar Bhil, died, through LR's Vs. Durgabai
Sakharam Bhil)

Mr.M.V.Bhamre, Advocate for the petitioners.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 08/09/2017

PER COURT :

1. The petitioners are aggrieved by the order dated 14/06/2017 passed by the Appellate Court granting an ad-interim stay to the judgment and decree dated 02/01/2013 in Reg.Civil Suit No.31/2006 and issuing a show cause notice for hearing on the ad-interim stay below Exh.5 in RCA No.25/2013.

2. The grievance of the petitioners is that they are the LR's of the original plaintiff No.1 Rupsing Shankar Bhil. The deceased Rupsing alongwith other plaintiff Nos. 2 to 6 succeeded in the suit. In the appeal filed by the original defendants, as Rupsing had passed away, the Appeal Court, by order dated 18/03/2015, abated the appeal as against Rupsing. Application Exh.21 filed by the petitioners intimating the demise of Rupsing has been taken on record.

3. The petitioners are now aggrieved by the fact that they have not been arrayed as defendants after the demise of Rupsing and are now suffering the ad-interim stay.

4. I find the above fact situation to be quite peculiar. If the petitioners are aggrieved by the impugned order and are desirous to participate in the appeal proceedings, they will now have to move an application for being brought on record as LR's of deceased Rupsing. Without the said issue being considered by the Appeal Court, this petition cannot be entertained.

5. This petition is, therefore, disposed of. In the event, the petitioners desire to make an application, if not already filed, to be brought on record as LR's of the deceased Rupsing, the Appeal Court would consider such an application on its own merits.

(Ravindra V.Ghuge, J.)