

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

WRIT PETITION NO. 13051 OF 2016

Shri. Milind Gonvidrao Khante & Anr. .. Petitioners

Vs.

Shri Shree Dnyanoba Taware & Ors. .. Respondents

...

Mr. Ashutosh M. Kulkarni for the Petitioners.

None for the Respondents.

CORAM : M.S. SONAK, J.

DATE : 10 AUGUST 2017.

P.C. :

1. Not on board. In view of urgency, taken on production board.

2. Mr. Ashutosh Kulkarni, learned counsel for the petitioners submits that Respondent No.3 Sindu D. Taware, who was, by the impugned order permitted to amend her written statement, has since expired. He submits that the petitioners will be satisfied if it is clarified that all objections / contentions with regard to the amended written statement of Smt. Sindu Taware are acted upon to be urged before the learned Trial Judge, now that Smt. Sindu Taware who is incidentally, the mother / mother in law of the petitioner has expired. He also submits that liberty may be reserved to the petitioners to challenge the impugned order in case the suit is decided against the petitioners by the Trial Court and the petitioners choose to institute a substantive appeal against such decision.

3. Though, leave to amend the Written Statement has been granted by the impugned order, all objections on merits are obviously open for the petitioners to raise in the course of the proceeding before the learned Trial Judge. In any case, it is clarified that such objections are always open. Further, in case the suit is decided against the petitioners and the petitioners choose to institute substantive appeal against the said decision, it is always open to the petitioners to challenge the impugned order at that stage. In any case, liberty to this fact is reserved in favour of the petitioners.

4. It is clarified that this court has not gone into or considered the merits of the rival claims and therefore it will be open to the learned Trial Judge to dispose of the suit on its own merits.

5. In view of the aforesaid, there is no necessity to entertain the present writ petition which is disposed of in the aforesaid terms.

6. The parties to act on the basis of the authenticated copy of this order.

(M.S. SONAK, J.)