

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

914. WRIT PETITION No. 11964 of 2018

Vishwanath Dagdu Khadke (died)

through legal representatives

... Petitioners

Versus

Abdul Rashid Shaikh Bismillah Bagwan (died)

through legal representatives

... Respondents

Mr. J.R. Shah, Advocate for petitioners

Mr. H.V. Patil, Advocate for L.Rs. No.1 & 2 of the respondent

Coram : N.M. Jamdar, J.

Date : 22 November 2018.

ORAL ORDER:

1. Heard the learned Counsel for the petitioners.
2. The petitioner have sought an amendment to the plaint in pending appeal filed before the District Court. Amendment was to add subsequent alleged purchaser of the suit property and to seek the consequential relief against the said subsequent purchaser. The learned Counsel for the petitioners submitted that though the subsequent

purchaser has been joined as party-respondent in the title clause of the plaint and appeal memo, the amendment in respect of consequential relief has not been granted.

3. The learned District Judge in the impugned order, has observed that in view of the document dated 14 April 2017, which is during pendency of the appeal, the subsequent purchaser has been added. Therefore, the factum of transaction dated 14 April 2017 being during the pendency of appeal, is an admitted position. That being so and as is even it is pointed out by the learned Counsel for the respondents, it is settled position of law that relief can be granted even against subsequent purchaser, who has purchased the property during the pendency of the litigation. In view of this position, even though there is no specific prayer in the appeal, petitioner is not prejudiced. In the circumstances, no interference is warranted in the writ jurisdiction. Writ petition is accordingly disposed of.

N.M. Jamdar, J.