

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

WRIT PETITION NO. 776 OF 2017

**VIMALBAI BALASAHEB AMBHORE AND OTHERS
VERSUS
KAMALBAI GANPATRAO GAIKWAD**

...
Advocate for the Petitioners : Shri V. H. Salunke h/f.
Shri S. B. Ghute
Advocate for the Respondent : Shri M. P. Kale
...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 27th NOVEMBER, 2018.

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PER COURT :

1. The Trial Court has considered application Exhibit 51 filed by the respondent wherein they have made certain allegations and have prayed that the suit be rejected in view of Order VII Rule 11 of the CPC. The Trial Court has framed the issues at Exhibit 22.

2. I have considered the submissions of the learned Advocates for the respective sides. The petitioners are aggrieved by the following order passed below Exhibit 51 :-

" In view of allegations issues are recasted at Exhibit 22".

3. In view of the above, considering that this Court (Coram : S. B. Shukre, J.), has observed on 19/01/2017 that the petitioners to satisfy that this petition is not prematurely filed, I find that this petition need not be kept pending as the Trial Court has framed an issue in the light of Exhibit 51. No fault can be found merely because the Trial Court has framed the issue.

4. This petition is, therefore, disposed off with liberty to the petitioners to raise a comprehensive challenge if the Trial Court holds against the petitioners in view of the issues cast by the impugned order.

5. Since RCS No. 50/2011 is pending adjudication for more than 7 (seven) years, the Trial Court is directed to decide the said suit expeditiously and in any case on or before 31/10/2019.

(RAVINDRA V. GHUGE, J.)

shp/-