

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

**WRIT PETITION NO. 8763 OF 2012
WITH
CIVIL APPLICATION NO. 1207 OF 2018**

Shri. Anil Bhaulal Patni & Anr.Petitioners

V/s.

Shri. Sunil Sheshgir Raichur & Ors.Respondents

Mr. A.V. Anturkar, Sr. Advocate a/w. Mr. S.B. Deshmukh for the petitioners.

Mr. Rahul V. Shinde for respondent nos.6, 8, 9 and 10.

**CORAM : MRS. MRIDULA BHATKAR, J.
DATED : 13TH JUNE, 2018.**

P.C.:

. Rule. Rule made returnable forthwith. Writ Petition is heard finally at the stage of admission.

2. The learned counsel for respondent nos.6, 8, 9 and 10 are present. On perusal of affidavit of service, respondent nos.1, 2, 6, 7, 8, 9, 10, 11 to 13 are served. The learned counsel for the petitioners submits that his application for condonation of delay was rejected only on the ground of maintainability of the appeal on the ground of pecuniary jurisdiction by order dated 09th August, 2012 passed by the

learned District Judge-13, Pune. Miscellaneous Civil Application No.161 of 2012 was filed by the petitioners who are the original objectors in execution proceedings and are the appellants before the District Judge-13, Pune. It is pointed out that the suit was valued for Rs.22,64,848/-. In the year 2012, as per Bombay Civil Court Act, the pecuniary jurisdiction of the District Court, First Appeal Court is set upto Rs.10 lakhs and therefore, the District Court, at that time, rejected the application on the ground for want of pecuniary jurisdiction. Today when this petition has come up for hearing, section 26 of Bombay Civil Court Act is amended and the pecuniary jurisdiction of the District Court is enhanced upto to Rs.1 crore w.e.f. 01st September, 2015.

3. In view of the above circumstances, the impugned order dated 09th August, 2012 passed by the learned District Judge-13, Pune in Miscellaneous Civil Application No.161 of 2012 is set aside and the said MCA No.161 of 2012 is restored to its original file and it is to be heard on merits by the learned District Judge-13, Pune. The learned District Judge to give notice to the parties and secure the presence of the respondents. The MCA No.161 of 2012 is to be placed before the concerned District Judge on 27th June, 2018. Civil Application No.1207

of 2018 filed for bringing legal heirs of respondent no.8 on record is allowed and the legal heirs of respondent no.8 are allowed to be brought on record before the District Judge in MCA No.161 of 2012 by carrying out amendment. Interim relief, if any, granted by this Court to continue till 28th June, 2018.

4. Rule made absolute on above terms.
5. Writ Petition stands disposed of.

(MRS. MRIDULA BHATKAR, J.)