

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1127 OF 2019

DEVICHAND DHARAMCHAND JAIN THROUGH LRS. PANKAWARBAI
DEVICHAND JAIN AND OTHERS
VERSUS
PRAMOD KASHINATH SONAR

...
Mr. Mukul S. Kulkarni, Advocate for petitioners
Mr. S.V. Dixit, Advocate for respondent
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 11-02-2019

ORDER :

1. Heard learned counsel for appearing parties.
2. The petition has been moved against order dated 30-11-2018 passed by *ad hoc* district judge-1, Dhule whereunder application Exhibit - 25 during pendency of regular civil appeal no. 7 of 2014 for additional evidence pursuant to Order XLI, Rule 27 of the code of civil procedure has been decided before appeal is heard.
3. In the circumstances, having regard to observations of supreme court in the case of *Union of India Vs. Ibrahimuddin* reported in (2012) 8 SCC 148, following the case of *Malayalam Vs. State of Kerala* reported in (2010) 13 SCC 487, whereunder the applications like the one under Exhibit - 25 shall be decided along with the appeal.

4. Learned counsel for petitioners additionally refers to a couple of orders passed by this court in similar circumstances in writ petition no. 7756 of 2013 and writ petition no. 7905 of 2015 respectively.

5. In view of aforesaid, the impugned order dated 30-11-2018 passed below Exhibit – 25 in regular civil appeal no. 7 of 2014 by *ad hoc* district judge-1, Dhule is set aside restoring the same in its entirety for decision afresh along with the appeal.

6. Writ petition accordingly is disposed of.

[SUNIL P. DESHMUKH]
JUDGE

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