

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

915 WRIT PETITION NO.1850 OF 2018

BHIMRAO ASHRUBA RADE AND OTHERS
VERSUS
KERUBA APPA TAUR AND OTHERS

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Advocate for Petitioners : Shri Latange V.P. h/f Shri Shinde R.S

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CORAM : RAVINDRA V. GHUGE, J.

Dated: March 05, 2019

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PER COURT :-

1. Though all the contesting respondents 1 to 3 have been served vide Court notice issued on 4.4.2018, none has caused an appearance.

2. I have heard the learned Advocate for the petitioners, who are the third party, seeking addition as defendants under Order I Rule 10 of the Code of Civil Procedure.

3. I find from the impugned order that the trial Court has rejected application Exhibit 22, solely on the ground that it was the duty of the third party to bring some evidence on record to indicate that they would fall within the family tree flowing from Narayan Rane. The trial Court has recorded that these third parties have not taken the

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pains to produce some evidence. These petitioners subsequently, have located certain documents and contend that these documents would indicate that they belong to the branch of Narayan Rane as they claim to be the legal heirs of Ashruba Rane.

4. In view of the above, this petition is partly allowed. The impugned order dated 2.9.2016 is quashed and set aside. Rather than permitting the applicants to amend Exhibit 26, I deem it appropriate to dispose of Exhibit 26 and permit these petitioners to file a fresh application in RCS No.199 of 2013 for seeking addition as defendants under Order I Rule 10 of the CPC.

(RAVINDRA V. GHUGE, J.)

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