

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 WRIT PETITION NO.6280 OF 2016

SANJAY BABURAO RANDIVE AND ANOTHER
VERSUS
LAXMIBAI ASHWINI SANJAY RANDIVE AND ANOTHER

.....
Advocate for Petitioners : Mr. Gunale V.D.
Advocate for Respondents : Mr. P. A. Bharat h/f Mr. U.L. Momale
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CORAM : V. K. JADHAV, J.
DATED : 3rd DECEMBER, 2019

PER COURT:-

1. Heard both sides.
2. It appears that in the pending appeal bearing Regular Civil Appeal No. 15 of 2011, the petitioners herein have filed application Exh.24 under Order 41 Rule 27 of Code of Civil Procedure, 1908 for permission to lead additional evidence and also filed an application Exh.26 for production of certain documents in connection with the said permission sought for adducing additional evidence.
3. In view of the ratio laid down by the Supreme Court in the case of *M/s. Eastern Equipment and Sales Ltd. vs. ING. Yash Kumar Khanna, reported in AIR 2008 SC 2360*, it is well settled that if such application is filed in the pending appeal, then the appellate court to decide the said application at the time of final hearing alongwith the appeal. Hence, I proceed to pass the following order:-

O R D E R

- I. Writ petition is hereby partly allowed.
- II. The impugned common order dated 30.4.2016 passed by learned District Judge-2, Udgir below Exh.24 and 26 in Regular Civil Appeal No. 15 of 2011 is hereby quashed and set aside.
- III. The appellate court is hereby directed to decide the applications Exh.24 and 26 alongwith Regular Civil Appeal No. 15 of 2011.
- IV. Writ petition is accordingly disposed of.

(V. K. JADHAV, J.)

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