

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

950 CIVIL APPLICATION NO.12111 OF 2017
IN SA/682/2014 WITH CA/11255/2016 IN SA/682/2014

ANANT NABORAO SURYAWANSHI AND OTHERS
VERSUS
LAXMAN MAROTIRAO SURYAWANSHI AND OTHERS

...

Mr. N.R. Thorat, Advocate for the applicants

Mr. V.G. Sakolkar, Advocate for the respondent No.1

Mr. S.S. Deshmukh, Advocate for the respondent Nos.2 and 3

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CORAM : SMT. VIBHA KANKANWADI,J.

DATE : 18th JANUARY, 2019

PER COURT :

1 Learned Advocates for respondent Nos.1, 2, 3, 5 & 6 are present. Taking into consideration the order that was passed on 07.12.2018 and also by giving a last chance on 11.01.2019 the applicants had sought and given time to take steps against respondent No.4, however, the steps have not been taken to bring the legal representatives of respondent No.4 on record. Under such circumstance, the application stands dismissed as against the respondent No.4.

2 Learned Advocate appearing for the applicants has prayed time

stating that he is not prepared. It is to be noted that the application is filed on 13.09.2016, which came to be numbered in 2017, yet the learned Advocate for the applicants makes statement that he is not ready with the matter. It will not be out of place to mention here that much time has been consumed for taking steps as against respondent Nos.4 and 7. When the learned Advocate for the applicants prayed time for one week, it was stated that at the most he could be accommodated till 2.30 p.m. but he is not ready. Under such circumstance, the matter is heard. The respondent Nos.1, 2, 3, 5 and 6 are heard.

3 It is submitted on behalf of the respondents, especially the learned Advocate for respondent No.1 that the respondent No.1 is the original defendant No.1. He had filed the suit for declaration of ownership and perpetual injunction against the present applicants. The said suit came to be dismissed. The present respondent No.1 thereafter challenged the said decree in appeal. The appeal is dismissed. Now, the present applicants who were the original defendants have come with the case that during the pendency of the Second Appeal, which is admitted, certain events have taken place before the revenue authorities and therefore, it is stated that the present respondent Nos.2 to 7 are the

necessary parties and therefore, they should be added as respondents. The first and the foremost fact to be noted is that it would be prerogative of the plaintiff against whom he should take legal action, admittedly, the present respondent No.2 to 7 to the present application were not the parties before the Trial Court. If anything has taken place during the pendency of the Second Appeal, then the law has its own course. Present applicants-original defendants cannot ask for addition of parties by way of filing an application. Under these circumstances, as there is no merit in the application, it is rejected.

(Smt. Vibha Kankanwadi, J.)

agd