

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

WRIT PETITION NO.12431 OF 2019

YASHWANT BABURAO DHOBLE AND OTHERS
VERSUS
YOGIRAJ ALIAS VIVEKANAND RAMRAO DHOBLE AND OTHERS

...
Advocate for the Petitioners : Shri Yadkikar Amit A.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th October, 2019

Per Court:

1 The petitioners, original plaintiffs in RCS No.528/2018, are aggrieved by the order dated 06.02.2019 passed by the Trial Court rejecting the application exhibit 5 under Order 39 Rules 1 and 2 of the Code of Civil Procedure. They are also aggrieved by the order dated 20.07.2019 by which, the Trial Court has rejected the review application exhibit 36 filed by the petitioners in the said suit.

2 The learned advocate for the petitioners submit that Ratanbai (wrongly typed in the Trial Court proceeding as "Ratnabai") was the wife of Baburao Dhobale. Both Baburao Dhobale and Ratanbai have passed away. The Trial Court has rejected the temporary injunction application only on an erroneous ground that the petitioners/ plaintiffs did not array Ratnabai (actually "Ratanbai) in the suit. The review application is also

rejected.

3 I find that the petitioners have a statutory remedy by preferring a miscellaneous civil appeal for challenging the order of the Trial Court dated 06.02.2019 before the Appellate Court.

4 In view of the above, this Writ Petition is disposed off with liberty to prefer a Miscellaneous Civil Appeal before the Appellate Court, within five weeks from today. The time spent by the petitioners in this Court from 23.09.2019 until five weeks from today, shall be a good ground for condonation of delay, if any.

kps

(RAVINDRA V. GHUGE, J.)