

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 5978 OF 2019

Anita d/o Jaiwantrao Dhavne
& another

Petitioners

Versus

Devannabai w/o Nagu Dhanve
& others

Respondents

Mr. S.S. Chillarge, advocate for the petitioners.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 11th September, 2019

PER COURT:

1. The petitioners are the original defendants in Regular Civil Suit No. 3/2009. They have challenged the order dated 18.01.2018 passed by the appellate Court by which, three parties are permitted to be added as respondents in Regular Civil Appeal No. 2/2011. The grievance of the petitioners is that they had raised a specific averment in the suit through their written statement that the suit suffers from non-joinder of parties. By the impugned order dated 18.01.2018 allowing addition of parties in the appeal, the ground taken by the petitioners would be nullified.

2. The learned Advocate for the petitioners frankly informs the Court that Regular Civil Appeal No. 2/2011 has been finally decided by judgment dated 29.06.2018. The appeal is allowed.

The suit is remanded back to the trial Court. This judgment is challenged by the petitioners in Appeal from Order before this Court.

3. In view of the above, the impugned order dated 18.01.2018 would stand merged in the judgment dated 29.06.2018 which is subject matter of the Appeal from Order. This petition is therefore disposed off and all grounds available to the petitioners as well as the respondents are kept open.

RAVINDRA V. GHUGE
JUDGE

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