

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

WRIT PETITION NO. 2713 OF 2020

MIRABAI NAMDEO BORDE AND OTHERS
VERSUS
DONIKA KIRTIKUMAR RUPAREL AND OTHERS

...

Advocate for the Petitioners : Shri A. D. Kasliwal

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 28th FEBRUARY, 2020

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PER COURT :

1. The Petitioners / original Respondent Nos. 1, 2 and 4 in Special Civil Suit No.246/2006, are aggrieved by an order dated 01/01/2020 passed by the Appellate Court in Regular Civil Appeal No. 71/2010, by which, the Appellate Court has held that application Exhibit 29 (wrongly mentioned as 33) and Exhibit 34, which pertain to Order XLI Rule 27 of the Code of Civil Procedure, would be heard alongwith the main appeal and has ordered that the application for amendment Exhibit 33 (wrongly mentioned as Exhibit 29) would be decided first.

2. The learned Advocate for the Petitioners has strenuously criticized the impugned order by relying upon the four grounds set out in the memo of the petition.

3. In my view, when an order of such nature is passed, by which, the Appellate Court decides to consider an application for amendment before deciding the Appeal, such order cannot be termed or branded as being perverse or erroneous. The Petitioners contention for opposing the application seeking amendment will surely be considered by the Appellate Court and as such, I do not find that this is a fit case to exercise the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

4. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-