

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

WRIT PETITION NO.1066 OF 2020

**RADHESHYAM MADHAVLAL KOGTA AND ANOTHER
VERSUS
BHAGWAT UDA SANDANSHIV AND OTHERS**

...

Advocate for the Petitioners : Shri Deshmukh Anand I.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 07th March, 2020

Per Court:

1 The petitioners/ original plaintiffs are aggrieved by the order dated 27.09.2018 passed by the Trial Court below exhibit 69 in Special Civil Suit No.22/2015. This Writ Petition has been filed on 12.04.2019 and registered in 2020.

2 I have considered the strenuous submissions of the learned advocate for the petitioners.

3 Special Civil Suit No.22/2015 filed by these petitioners, was dismissed as against defendant Nos.4 and 6 as the plaintiffs did not take any step to serve them. That order of dismissal of the suit to the extent of defendant Nos.4 and 6 has not been challenged. Exhibit 69 has been filed by the plaintiffs invoking Order I Rule 10 and Section 151 of the Code of

Civil Procedure for addition of the parties. This addition is not of the third parties. This is an application seeking addition of those parties against whom the suit has been dismissed.

4 In my view, such an application is not tenable as it is not the case of addition of parties, but restoration of the suit as against the parties with reference to which, the suit has been dismissed. An application for recalling of the said order or an appropriate proceeding could have been filed.

5 In view of the above, I do not find that the Trial Court has committed any error in rejecting exhibit 69. This Writ Petition, being devoid of merit is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)