

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6722 OF 2019

Sunder Ramchandra Vasav & ors.

.Petitioners

Vs.

Shamrao Anna Patole & ors.

.Respondents

Mr. Shailesh Chavan i/b. Mr. Milind Deshmukh, Advocate, for the
Petitioners

Mr. Suryajeet P. Chavan, Advocate, for the Respondent No. 5

CORAM : REVATI MOHITE DERE, J.

DATE : 13.01.2020

P. C.

. Heard learned counsel for the parties.

2. By this Petition, the Petitioners have impugned the order dated 07.02.2018 passed below Exh. 44 in R.C.A.No. 229 of 2010 as well as the order dated 16.11.2018 passed below Exh. 49 in R.C.A.No. 229 of 2010 by the learned Ad-hoc District Judge – 1 and Extra Joint District Judge, Vaduj, Satara respectively.

3. Perused the papers. The Petitioners (Original Defendants), being dis-satisfied with the Decree and Judgment dated 21.09.2006 passed by the learned C. J. J. D., Vaduj, Satara in R. C. S. No. 251 of 1998 filed an Appeal, being R. C. A. No. 229 of 2010 in the Court of the

learned District Judge, Satara. It appears that during the pendency of the said Appeal, the Petitioners (Original Defendants) filed an Application, being Exh. 44 under O. XLI, Rule 27 of the Code of Civil Procedure for production of additional evidence in the Appellate Court. The said Application was filed on 10.11.2017 and is on page No. 35 of the aforesaid Petition. The learned Ad-hoc District Judge, Vaduj, Satara vide order dated 07.02.2018 rejected the said Application on the premise that no reasons were set out in the Application as to why the documents which were sought to be produced before the Appellate Court were not produced before the learned trial Judge. It was also observed that the Application does not contain the necessary averments, as contemplated under O. XLI, Rule 27(1)(a)(aa)(b) of the Code of Civil Procedure. It appears that the Petitioners (Original Defendants) again filed an Application, being Exh. 49 and sought review of the order dated 07.02.2018. The said Application was also rejected by the learned Extra Joint District Judge, Vaduj, Satara on 16.11.2018, by passing a detailed order. A perusal of the Application, being Exh. 44 purportedly filed under O. XLI, Rule 27 does not set out any reasons or grounds why the said documents were not produced before the trial Court. The said Application (Exh. 44) is bereft of any details, as contemplated under O. XLI, Rule 27 of the Code of Civil Procedure.

4. In the light of what is stated aforesaid, no infirmity can be

found in the impugned orders dated 07.02.2018 and 16.11.2018 passed below Exhs. 44 & 49 respectively in R.C.A.No. 229 of 2010. Accordingly, the Petition is dismissed.

(REVATI MOHITE DERE, J.)