

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

WRIT PETITION NO.15488 OF 2019

- 1] Natthu S/o Hussain Shaikh
deceased Through legal heirs
- 1.1] Jiatbi Shaikh Natthu Musalman,
Age 71 years, Occ.Household
R/o H.No.57, Lane No.5,
Nandan Nagar, Malegaon,
Dist.Nashik.
- 1.2] Hasinabi Saheb Khan,
Age 51 years, Occ.Household
R/o.Danashivar, Ramjanpura,
Malegaon, Dist.Nashik.
- 1.3] Shakilabi Shaikh Bismilla,
Age 48 years, Occ.Household,
R/o Chaudi Bavli, near Zapat Bhavani
Temple, Parola, Dist.Jalgaon.
- 1.4] Shaikh Raju Shaikh Natthu Musalman,
Age 44 years, Occ Labour
R/o H.No.57, Lane No.5,
Nihal Nagar, Malegaon,
Dist.Nashik.
- 1.5] Shaikh Salim Shaikh Natthu Musalman
Age 41 years, Occ.Labour
R/o Ramjanpura, Malegaon, Dist.Nashik.
- 1.6] Faridabano Shaikh Rafik,
Age 38 years, Occ.Household,
R/o. Bhatana road, behind power house
Chimani Takda, Surat, Gujrat
- .. PETITIONERS
(Org.Res.)

VERSUS

- 1] Nalini Dattatray Wani,
Age 57 years, Occ.Nil
R/o "C" Sector, Room No.492,
Barkheda, Bhopal (Madhyapradesh)
- 2] Walmik Abhiman Kharnar,
Age 32 years Occ.Agr
R/o Nimgul, Tq. & Dist. Dhule
Through General Power of Attorney,
Vasant Sukhdeo Patil
Age 56 years, Occu. Agri
R/o. Vani (Kh), Tq. & Dist. Dhule.
- 3] Vijay Bhalchandra Patil
Age 46 years, Occu. Agri.,
- 4] Chandrakant Bhalchandra Patil,
Age 42 years, Occu. Agri.,
- 5] Smt. Kesarbai Bhalchandra Patil,
Age 69 years, Occu. Household,
- 6] Sou. Sangita Ratan Patil
Age 40 years, Occu. Household

Res.No.3 to 6 are R/o Nimgul,
Tq. & Dist. Dhule.

.. RESPONDENTS

[Res.No.1 is Org.respondent
Res.No.2 is Org.Appellant
and Res.Nos.3 to 6 are the
applicants.]

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Advocate Mr.V.B.Anjanwatikar for the petitioners
Advocate Mr.A.J.Patil for respondent nos. 3 to 6.

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CORAM: MANGESH S PATIL,J.**DATE : 29.11.2021****ORAL JUDGMENT:**

The learned advocate for the petitioners seeks leave to delete the respondent no.1. Leave is granted at the risk of the petitioner.

2] Heard learned advocate for the petitioners as also the learned advocate Mr.Patil for respondent nos.3 to 6 whose application for intervention in an appeal preferred by the respondent no.1 against the judgment and decree passed in favour of the petitioners has been allowed with one line order which reads as under :

“In the interest of Justice application is allowed.”

3] Rule. Rule is made returnable forthwith. At the request of both sides, the matter is heard finally at the stage of admission.

4] By no stretch of imagination the order under challenge can be said to be a judicial order. Without there being any iota of reasons, the learned Principal District Judge, Dhule has allowed the application in all probability because the

respondent no.1 who was the appellant, in his say to the application of the respondent nos.3 to 6 admitted their possession in the suit property.

5] These facts apart, when the petitioners are the persons who are interested in prosecuting the suit and defending the appeal being armed with the decree under challenge before the appellate Court, it was expected of the learned Judge to have applied his mind and passed a reasoned order. In view of such nature of the order under challenge, there is no alternative but to remand the matter to the appellate Court for decision afresh on the application of the respondent nos.3 to 6 (Exh.36).

6] The Writ Petition is allowed. The impugned order is quashed and set aside. The matter is remanded back to the learned Judge of the appellate Court who shall now decide the application (Exh.36) on its own merits in accordance with the observations made hereinabove.

7] The rule is made absolute in above terms.

[MANGESH S. PATIL,J.]

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