

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

**WRIT PETITION NO.12364 OF 2019**

Sushila Ramu Yadav & Ors. .... Petitioners

Vs.

Smt. Sharubai Ramu Yadav & Ors. .... Respondents

Mr. Prashant Kulkarni i/by Naveen B. Khaire for Petitioners

**Coram : NITIN W. SAMBRE, J.**

**Date : 8TH FEBRUARY, 2021**

P.C.:

1. At the fag-end of the trial in Suit being Regular Civil Suit No. 17 of 2009, an application Exhibit 201 came to be moved by the Petitioners-Defendants under the provisions of Order XVIII, Rule 17 of C.P.C. for recalling his own witness, so as to record further examination-in-chief.

2. The trial Court rejected the said application. As such, this petition.

3. The submissions are, for the effective adjudication of the suit, the further examination-in-chief of the said witness of the Petitioners/Defendants is necessary.

4. The Petitioners have also placed reliance upon the judgment of Hon'ble Apex Court in the matter of K.K. Velusamy Vs. N. Palanisamy, reported in 2011 (3) ALL M.R. page 455.

5. With the assistance of the learned counsel, I have perused the evidence of the witness of the Petitioners/ Defendants, whose recall is sought under Order XVIII, Rule 17 of C.P.C..

6. The said witness though cited by the Petitioners has not supported his case.

7. Rather by way of an application, Exhibit 201, the Petitioners have sought recording of further examination-in-chief of the said witness.

8. The fact remains that the said witness was already subjected to cross-examination and he has completely deposed against

the Petitioners. As such, recalling of said witness that too at the stage of final hearing of the suit is completely unwarranted as it could be noticed that the said attempt is with intent to fill up the lacunae.

9. No interference is called for. The Petition fails. Dismissed.

( NITIN W. SAMBRE, J. )