

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

WRIT PETITION NO. 1367 OF 2020

Pratap Bhagwantrao Bagrao & Ors.

..Petitioners

v/s.

Sitabai Narayan Deshmukh & Ors.

..Respondents

Mr. Atul Damale Sr. Advocate a/w. Shri S.M.Sabrad, Neha Parte
i/b. Aruna Koli for the Petitioner.

Mr. Rohan Barge for the Respondent No.1.

Mr. Surel Shah a/w. Prabhanjan Gujar for the Respondent Nos. 2
to 7.

Mr. Rohit Sakhadeo i/b. Sakhdeo & Associates for the Respondent
No.11.

Mr.PV.Nelson, AGP for the State

CORAM : ANUJA PRABHUDESSAI, J.

DATED : MARCH 22, 2021.

P.C.

1. The Petitioners herein had challenged the order dated
16.08.2019 whereby the learned Civil Judge, Senior Division,
Panvel has dismissed the application under Order 1 Rule (10) 2 of
CPC.

2. The Intervenors who have sought intervention claim to be
the legal representatives as the daughters of Mr. Parshuram

Deshmukh, the original owner of the subject property. It is not in dispute that Tarabai, one of the daughters of Parshuram had filed a suit for partition in the year 1996. The said suit was dismissed for default, and no application was filed for restoration of the said suit. It is also not in dispute that some of the legal representatives had filed an application under Order 1 Rule 10(2) way back in the year 2016. Said application was withdrawn simplicitor without seeking liberty to file fresh application, hence as rightly held by the ld. Trial Judge, the Applicants are precluded from filing a similar application at subsequent stage.

3. Thus, having considered the facts and circumstances of the case, in my considered view, the order does not warrant any interference in writ jurisdiction. The petition is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)