

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 WRIT PETITION NO.11347 OF 2022

HAUSRAO VITHOBA GANGARDE AND ANOTHER
VERSUS
ANKUSH TUKARAM GANGARDE AND OTHERS

...
Advocate for Petitioners : Mr Umesh G. Mitkari

CORAM : SANDEEP V. MARNE, J.
DATE : 16th NOVEMBER, 2022

PER COURT :

1. By this petition, petitioner challenges the order dated 19.09.2022 passed by the District Judge, Shrigonda in Misc. Civil Application filed under the provisions of 151 of Code of Civil Procedure. By that application, petitioners sought modification of the order dated 29.01.2019 passed by the District Judge, Ahmednagar in Regular Civil Appeal No. 215/2011. The appeal was instituted by original defendant No. 5 challenging the Judgment and decree dated 06.08.2008 passed by the Joint Civil Judge, Junior Division, Karjat. Petitioners were implied as defendant Nos. 3 and 4 to the suit. Admittedly, they did not challenge the Judgment and decree of the trial court.

2. The application under section 151 of the Code was filed essentially contending that the supreme Court in its Judgment in **Vinita Sharma Vs. Rakesh Sharma and others reported in AIR 2020 SC 3717** has held that the daughters are entitled to equal share in the ancestral property. On that count, modification of the order of the District Court was sought.

3. It is incomprehensible as to how petitioners can seek modification of the order passed by the District Court in an appeal which is not even filed by them. If petitioners are aggrieved by the quantum of share allotted to them by the trial court, they were to file their own appeal challenging the Judgment and decree of the trial court.

4. The application filed by petitioners was clearly not maintainable and the trial court has rightly rejected the application. The petition is devoid of merits and the same is dismissed without any order.

[SANDEEP V. MARNE, J.]

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