

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

WRIT PETITION NO.10544 OF 2014

Subhadra Maharudrappa Panchal (Minor)
and Anr.

..Petitioners

Versus

Ramchandra Jivappa Sutar
Since deceased through his legal heirs
Parvatibai Ramchandra Sutar

..Respondent

**WITH
INTERIM APPLICATION NO.17 OF 2022**

Sushila Tukaram Sutar

..Intervenor
/Applicant

IN THE MATTER BETWEEN

Subhadra Maharudrappa Panchal (Minor)
and Anr.

..Petitioners

Versus

Ramchandra Jivappa Sutar
Since deceased through his legal heirs
Parvatibai Ramchandra Sutar

..Respondent

Mr. Anand S. Kulkarni, for the Petitioners.
Mr. Ajit V. Alange, for the Intervenor.

CORAM : NITIN W. SAMBRE, J.

DATE : 8th MARCH, 2022

PC.

1. Applicant is seeking impleadment in pending suit based on the will dated 9th October, 2018.

2. The application stands disposed of with liberty to the said applicant to approach in the pending suit which ordered to be restored by this Court for getting herself impleaded.

3. If such prayer is moved, same be decided without influence of disposal of present application.

4. Petitioners'/plaintiffs' suit being RCS No.678 of 2011 for partition and separate possession came to be dismissed pursuant to the provisions of Order XV Rule 4 of the CPC.

5 The claim in the petition though served is not controverted for restoration of the suit.

6. Perusal of the order impugned dated 31st December, 2013 does not disclose that the summons was issued as contemplated under Order XV Rule 4 of the CPC for judgment or otherwise.

7. Rather, I am assured in the form of an undertaking that if given chance, the petitioner shall be tendering her written statement before the Court below within a period of four weeks from today.

8. Statement made is accepted as undertaking.

9. That being so, order impugned dated 31st December,

2013 passed below Exh.1 is hereby quashed and set aside. Suit is restored to be file.

11. However, the petitioner is put to condition of deposit of cost of Rs.5,000/- within four weeks, apportionment of which be ordered by the Trial Court.

12. As such, petition stands allowed in above terms.

[NITIN W. SAMBRE, J.]