

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2010 OF 2022

WITH

INTERIM APPLICATION STAMP NO.5722 OF 2022

Mr. Anand S. Jamsandekar and Ors.

..Petitioners

Versus

The State of Maharashtra and Ors.

..Respondents

Mr. Vishwanath S. Kapse a/w Upendra Mahadik i/by Fast Track
Legal, for the Petitioners.

Mr. P. P. Pujari, AGP for the Respondent Nos.1 & 2/State.

Mr. Sanjay Prabhu, for the Respondent No.3.

CORAM : NITIN W. SAMBRE, J.

DATE : 9th MARCH, 2022

PC.

1. Leave to amend in relation to the incorporation in the
date of the order impugned.

2. Amendment to be carried out forthwith.

3. The respondent/plaintiff claims to be allottee of the
premises which were requisitioned. Deceased Keshav Jamsandekar
was the owner of the suit property.

4. The petitioners claim to be legal representatives of the
said deceased Keshav Jamsandekar and as such claimed to have

succeeded to the interest of the said Keshav Jamsandekar in the suit property and sought their impleadment which prayer is rejected vide impugned order.

5. Having appreciated rival submissions of the parties to the present petition, what can be noticed is the respondent/plaintiff has disputed the status of the petitioners as that of legal representatives of deceased Keshav Jamsandekar i.e. owner of the suit premises.

6. In the aforesaid background, it was expected from the petitioners to address the Court below and establish that they are legal representatives of the deceased Keshav Jamsandekar in view of stand taken by the plaintiff about denial of their status. The petitioners as such should have established their status under Order XXII Rule 5 of the CPC. Rather the Court below in the impugned order has considered whether the petitioners have established their status that of landlord or owner. As such, in my opinion, the petitioners can be given an opportunity to establish their claim that they are legal representatives of deceased Keshav Jamsandekar as provided under Order XXII Rule 5 of the CPC.

7. In the aforesaid background, the order impugned in the present petition is hereby quashed and set aside. The Chamber Summons stands restored to the file of the learned Court below. The Court below is directed to decide the same in the light of

provisions of Order XXII Rule 5 of the CPC.

8. The petition as such stands allowed in above terms.
9. In view of disposal of petition, interim application also stands disposed of.

[NITIN W. SAMBRE, J.]