

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

WRIT PETITION NO. 2050 OF 2022

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Dyanoba Rambhuh Gavhane (Deceased)

Through legal heirs

Babubai Dyanoba Gavhane & Ors.

..Petitioners/Defendants

Versus

Namdev Vaman Gavhane & Ors.

..Respondents

Mr. Rushikesh G. Patil Adv. for the Petitioners/Defendants.

CORAM : NITIN W. SAMBRE, J.

DATE : 21st MARCH, 2022

PC.

1. Impugned in the petition is an order dated 2nd November, 2019 passed below Exh.136, whereby prayer of the petitioner under Order VIII Rule 6A of the CPC for permission to file counterclaim is rejected on the ground that the same is initiated at much belated stage.

2. The contention is, trial in the suit is at preliminary stage and as such, no prejudice would be caused to the plaintiffs.

3. The fact remains that the counterclaim is sought to be placed on record after ten years of the written statement. It is further noticed that counterclaim is based on stale cause of action.

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4. That being so, no case for interference is made out.
5. The petition as such fails, dismissed.

[NITIN W. SAMBRE, J.]