

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

**INTERIM APPLICATION NO. 17665 OF 2022
IN
SECOND APPEAL NO. 442 OF 2014**

Shri Mahadeo Kashinath Kole
(Decd. Thr. LRs) Smt. Shailaja Mahadeo
Kole and Ors.

...Applicants

vs.

Shri Sadashiv Kashinath Kole and Ors.

...Respondents

**ALONGWITH
CIVIL APPLICATION NO. 92 OF 2022
IN
SECOND APPEAL NO. 442 OF 2014**

Shri Mahadeo Kashinath Kole

...Applicants

vs.

Shri Sadashiv Kashinath Kole and Ors.

...Respondents

**ALONGWITH
INTERIM APPLICATION NO. 17666 OF 2022
IN
SECOND APPEAL NO. 442 OF 2014**

Shri Mahadeo Kashinath Kole
(Decd. Thr. LRs) Smt. Shailaja Mahadeo
Kole and Ors.

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vs.

Shri Sadashiv Kashinath Kole and Ors.

...Respondents

Mr. T. S. Ingale - Advocate for the Applicants

Mr. S. T. Bhosale a/w Mr. Suyash Khose i/by Mr. Dilip Bodake - Advocate
for the Respondent Nos. 3A to 3F.

CORAM : S. M. MODAK, J.

DATE : 25th AUGUST, 2022

P. C. :-

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1. Heard learned Advocate for the Applicants.
2. The sole Appellant expired on 12/04/2022. Copy of death certificate is annexed. The present Applicants are his Legal representatives. The Application is filed in time. The Respondents are consenting.
3. In view of that Interim Application No. 17665 of 2022 is allowed in terms of prayer clause 'a'. Necessary amendment be carried out within two weeks and amended copy be served on the Respondents.
4. The Applicants are also permitted to carry out necessary amendment in Civil Application No. 92 of 2022.

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5. Heard learned Advocate for the Applicants/Appellants and learned Advocate for the Respondents.
6. Learned Advocate has taken me through various orders passed by this Court which are filed at page no. 19 to 25 and 29.
7. This Court as per Order dated 17/07/2015 has already directed to go on with the execution of the partition decree and the possession and partition was directed not be disturbed. There are also certain interim

reliefs thereby directing the Respondents from not interfering with joint possession and cultivation of the Appellant in suit lands. Now the applicant claims that Respondents have started with certain construction and photographs to that effect is filed at page no. 33.

8. Learned Advocate for the Respondents undertakes to file reply within a period of one week. That photograph do suggest that there is structure erected with tin sheds. This application can be heard once the reply will be filed.

9. It is made clear that if the Respondents have started with that structure, let them satisfy themselves that the land on which they are erecting the structure they have got right to erect the structure.

10. Matter be kept on 19/09/2022.

[S. M. MODAK, J.]