

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

WRIT PETITION NO.8314 OF 2016

1. Arvind Harishchandra Jadhav	]	
2. Rajendra Harishchandra Jadhav	]	
3. Jayashree Ravindra Padale	]	
4. Satish Bhagwan Jadhav	]	
5. Saurabh Bhagwan Jadhav	]	
6. Pratiksha Raju Bhoir	]	.. Petitioners
Vs.		
1. Yamunabai Budhaji Jadhav	]	
2. Santosh Budhaji Jadhav	]	
3. Shantabai Sakharam Jadhav	]	
4. Fasabai Chandrakant Jadhav	]	
5. Gaurabai Chandrakant Jadhav	]	
6. Shakuntala Vasant Pawar	]	
7. Premnarayan V. Shukla	]	
8. Ma Laxmi Combines	]	
9. Manohar Harishchandra Jadhav	]	.. Respondents

Mr. Sunil G. Karandikar for the Petitioners.

Mr. Shriram S. Redji for Respondent Nos.1 to 6.

CORAM : VALMIKI SA MENEZES, J.

DATE : 20TH DECEMBER, 2022.

P.C. :

1. Rule. Rule made returnable forthwith by consent of learned counsel for the parties.

2. This Petition, filed under Article 227 of the Constitution of India, impugns the order dated 14th March 2016 passed by the Joint Civil Judge, Senior Division, Kalyan on an application (Exhibit-32) filed in Special Civil Suit No.336 of 2012, seeking impleadment as a party-defendant in the said Suit. After hearing the rival contentions of the parties for some time, I am of the opinion that the Petition deserves to be dismissed for the following reasons.

3. From the petition it transpires that the petitioners had earlier filed an application (Exhibit-25) seeking impleadment in the said Suit as party-plaintiffs and, in the alternative, had sought impleadment also as party-defendants. This application (Exhibit-25) is pending on the file of the Civil Judge, Senior Division, Kalyan. The said application came to be dismissed by an order dated 5th December 2014, wherein detailed reasons were set out by the trial court for rejecting the said application (Exhibit-25). Among these reasons, the trial court, referring to the provisions of Order I Rule 10 of the CPC, has concluded that the petitioners have not made out a case to show in what manner their rights would be affected in terms of the pleadings in the plaint. The trial court further holds that the plaintiff being *dominus litus*, the defendants would have no absolute right to be made party to the Suit. Accordingly, the trial court proceeded to dismiss the application (Exhibit-25) holding that the petitioners would neither have a right to be added as plaintiffs nor as the defendants in the Suit. For lack of challenge to the said order, it became final.

4. Despite this position, the petitioners filed a second application at Exhibit-32 on the file of the trial court and now claiming to be added as defendants in the Suit. The reasons in the application (Exhibit-32) appear to be similar to the earlier application (Exhibit-25) filed by the petitioners. The trial court has proceeded to dismiss the application at Exhibit-32 mainly on the ground that there was no challenge led to the earlier order of dismissal passed on the application for impleadment at Exhibit-25 on the file of the trial court and hence it did not allow fresh application.

5. Having considered the reasoning contained in the impugned order dated 14th March 2016, I do not find this to be a fit case for exercising supervisory jurisdiction under Article 227 of the Constitution of India. I find no infirmity in the reasons set out by the trial court in the impugned order. Rule is discharged. Petition is dismissed in limine.

[VALMIKI SA MENEZES, J.]