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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1811 OF 2022
WITH
WRIT PETITION NO.1812 OF 2022**

Smt. Shalini Dattatraya Khaire & Anr. Petitioners.

V/s

Shri Dilip Sopan Khaire and Ors. Respondents.

Mr. Prashant L. Rathod for the Petitioners in both the above Writ Petitions.

Mr. S.M. Gorwadkar, Senior Advocate i/b Hemant Ghadigaonkar for Respondent Nos. 1 to 7 in both the above Writ Petitions.

CORAM: NITIN W. SAMBRE, J.

DATE: APRIL 01, 2022

P.C.:-

1] Suit for partition being Special Civil Suit No.1193 of 2014 was initiated against Defendant No.1 – Smt. Tarabai Sopan Khaire who is claimed to have executed registered Will dated 5th March, 2014. Tarabai passed away on 8th March, 2016. As a consequence, Respondents moved an application for substitution of their names in the capacity of her legatees/legal representatives. Said application came to be allowed vide impugned orders whereby delay caused in moving such application is condoned, abatement was ordered to be

set aside and Respondents are allowed to be brought on record as legatees/legal representatives of Tarabai. As such, these Petitions.

2] Since the Petitioners/original Defendants in Special Civil Suit No.1193 of 2014 have questioned the Will dated 5th March, 2014 in an independent suit, in case if such suit is decreed, present Petitioners/Defendants in Suit No.1193 of 2014 will have every right to question the authority of legatees of Smt. Tarabai who are Respondents before this Court. In case if such suit of the Petitioners/Defendants is decreed, necessary consequences will follow to the extent of property bequeathed in favour of the Petitioners/Defendants by the said Will.

3] In view of above, I hardly see any reason which warrants interference in the order impugned.

4] Petition stands disposed of in the aforesaid terms.

(NITIN W. SAMBRE, J.)