

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10857 OF 2021

Yashwant Ramchandra Rajle And Another ...Petitioners

Versus

Ramchandra Kisan Rajle Through
Lrs Hausabai Ramchandra Rajle And Others ...Respondents

Mr. R.R. Karpe, Advocate for the petitioners.
Mr. V.B. Jagtap, Advocate for respondents No. 3 to 5.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 10th APRIL, 2023

ORDER :

1. The petitioners are aggrieved by order dated 16.01.2020 passed by learned District Judge-1, Newasa, below Exhibit- 29 in Regular Civil Appeal No. 264 of 2014.

2. Respondent No. 5/original appellant No. 5 filed said application for amendment under Order 6 Rule 17 of Code of Civil Procedure, which is allowed. Hence, the present petition.

3. Upon hearing the learned advocate for the petitioners and learned advocate for the respondents and after going through the documents placed on record and the impugned

order, this Court is of the considered view that the application for amendment filed by respondent No. 5/original appellant No. 5 ought to have been considered by the Appellate Court at the time of hearing of appeal and not prior to that, which is a settled legal position. In that view of the matter, the matter is remitted back to the Appellate Court for consideration of application Exhibit-29 at the time of hearing of appeal.

4. The Appellate Court shall decide the said application on its own merits without being influenced by the order impugned in the present petition or by the present order passed by this Court.

[NITIN B. SURYAWANSHI, J.]