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**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**  
**BENCH AT AURANGABAD**

**WRIT PETITION NO.4980 OF 2023**

Panchaphulabai @ Panchabai Raosaheb  
Dandekar and Others

PETITIONERS

VERSUS

Indubai Shriram Sawant and Others

RESPONDENTS

.....  
Mr. Pramod Fulchand Patni, Advocate for the petitioners  
.....

**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 28<sup>th</sup> APRIL, 2023**

**ORDER :**

1. The petitioners are aggrieved by the order dated 7<sup>th</sup> November, 2022 passed by learned Ad hoc District Judge-1, Bhokar below Exhibit-14 in Regular Civil Appeal No. 10 of 2021, thereby rejecting the application filed by the petitioners / appellants under Order 1, Rule 10 of the Civil Procedure Code praying to strike out name of respondent No. 5 (defendant No.7) from the appeal.
2. Heard learned advocate for the petitioners. Perused the writ petition memo, documents annexed with it and the impugned order.
3. It is the contention of the petitioners that after death of

her husband, defendant No. 7 married another person, and therefore, she is not entitled to the share of her deceased husband. The Appellate Court has observed that in view of repeal of section 27 of the Hindu Succession Act, by Amendment Act, 2005 (39 of 2005) with effect from 9<sup>th</sup> September, 2005, the said submission cannot be accepted. This is not a stage to decide whether defendant No.7 was improperly joined as defendant in the suit.

4. I find no merit in the challenge raised by the petitioners in the present petition and the Appellate Court has rightly rejected the application filed by the petitioners. No case is made out by the petitioners to exercise extraordinary writ jurisdiction. Writ petition being devoid of merits, is dismissed.

5. It is, however, made clear that the Appellate Court shall consider the entitlement of respondent No. 5 (defendant No.7) by taking into consideration the provisions of the Hindu Widow Remarriage Act, at the time of final adjudication of the appeal.

**[NITIN B. SURYAWANSHI]**  
**JUDGE**