

VRJ

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

WRIT PETITION NO.3764 OF 2021

VAIBHAV
RAMESH
JADHAV
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VAIBHAV RAMESH
JADHAV
Date: 2023.08.23
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Suman W/o Dattatraya Jadhav Through
Special PoA Rajendra Dattatraya Jadhav
& Ors.

... Petitioners

V/s.

Raghunath S/o Tulaji Shinde (deceased)
Through his Lrs. and Ors.

... Respondents

Mr. Abhishek Kulkarni for the petitioners.

Mr. Akshay S. Bavare with Ms. Prasanna K. Shahane for
respondent Nos.8, 9A and 9B.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 23, 2023

P.C.:

1. Challenge in this petition is to the order passed by the trial Court under Order 47 Rule 4 of the Civil Procedure Code, 1908. Order 43 Rule 1(W) provides for appeal against an order under Rule 4 of Order 47 of the Civil Procedure Code, 1908.

2. The impugned order was passed on 2nd February 2021. Present civil writ petition was filed on 17th February 2021. The writ petition was pending before this Court. Therefore, the period of pendency of present civil writ petition shall be excluded by the appropriate Court while considering appeal filed by the petitioners.

3. Therefore, the civil writ petition is disposed of with liberty to the petitioners to file appeal before the appropriate Court. No costs.

4. It is made clear that this Court has not considered merits of the matter and it will be open for the Appellate Court to consider the contentions of both parties on its own merits.

(AMIT BORKAR, J.)