

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 6915 OF 2022**

Kamal Bhanudas Dharmadhikari and Anr. .. Petitioners
 Versus
 Shamrao Keshav Vedpathak and Ors. .. Respondents

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 • Mr. Vaibhav V. Ugle, Advocate for Petitioners

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 20, 2023.

P.C.:

1. Heard Mr. Ugle, learned Advocate for Petitioners.
2. Perused the impugned order dated 20.04.2022 below Exh.92 in R.C.S. No. 379 of 2004.
3. Record clearly indicates that Shamrao Vedpathak, father of the Petitioners though expired in the year 2014 and the Petitioners were brought on record on 09.03.2022 before the learned Trial Court, the witness action was completed prior to Shamrao's death. In that view of the matter, the application filed below Exh.92 by the Petitioners seeking to recall the Plaintiffs witness and carry out cross examination of the said witness in order to adjudicate the issue of encroachment cannot be allowed.
4. Record further indicates that the application for recall of the

Plaintiff's witness was made by the Petitioners after the final argument in the original suit proceedings were completed and the suit proceedings was posted for final judgment and decree.

5. In that view of the matter, the impugned order cannot be faulted with and calls for no interference. It is a cogent and reasoned order and is therefore sustained.

6. Writ Petition is dismissed.

[MILIND N. JADHAV, J.]

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