

SA Pathan

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

WRIT PETITION NO.12936 OF 2019

Krishna Sitaram Patil (Deceased)

Through Legal Heirs

Sakharibai Krishna Patil & Ors

... Petitioners

V/s.

Arun Raghunath Patil & Ors

... Respondents

Mr. Mahesh Subramanian i/by Mr. S. V. Pitre for
petitioners.

Mr. Tushar Sonawane a/w Ms. Pooja Satpute a/w Mr.
Shubham Budhvant, for respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 25, 2023

P.C.:

1. The order impugned in the writ petition is in exercised power under Order 41, Rule 27 of the Code of Civil Procedure, 1908.
2. In view of the judgment in the case of **Union of India vs Ibrahim Uddin & Anr**, reported in (2012) 8 SCC 148, the obligation cast on the Appellate Court is to decide application under Order 41, Rule 27 of the Code of Civil Procedure, 1908 at the time of hearing final arguments.
3. Learned Advocate for the petitioners states that the final arguments are yet to be started.

4. The Appellate Court is, therefore, directed to decide the application after hearing final arguments of the petitioners.
5. The application under Order 41, Rule 27 shall be decided uninfluenced by any observations made in the impugned order.
6. All contentions of the parties are kept open to be agitated at the time of hearing final arguments of the appeal.

(AMIT BORKAR, J.)