



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 8362 OF 2018

Vaijinath Ashruba Ghodke

VERSUS

Mirza Mumtaj Baig Mirza Usman Baig And Others

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Mr. H. V. Tungar, Advocate for the Petitioner

Mrs. C. S. Deshmukh, Advocate for Respondents

CORAM : R.M. JOSHI, J

DATE : JULY 01, 2024

PER COURT :

1. At the outset, learned Counsel for the Petitioner submits that the First Appellate Court ought not to have decided the issue with regard to the admissibility of the additional evidence under Order XLI, Rule 27 of CPC before taking up Appeal for final hearing.

2. In this regard, it is pertinent to note that it was the Petitioner who has called upon the learned Appellate court to decide the said application before the stage of final hearing of the Appeal. Hence, now after being unsuccessful to persuade the Appellate Court to grant application, it is not open for the Petitioner to claim that the said application ought to have been decided finally at the stage of final hearing

of the Appeal.

3. On merits, learned Counsel for the Petitioner has sought to convince this Court about non sustainability of the impugned order. Perusal of the application shows that the application is as vague as possible with no particulars provided for invoking the provisions of Order XLI, Rule 27. Hence, this Court finds no perversity in the impugned order.

4. It is however clarified that observations are only made for the purpose of deciding this Petition and Appellate Court not to get influenced by the same.

5. Petition stands dismissed.

(R. M. JOSHI, J.)

Malani