



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2695 OF 2023
WITH WRIT PETITION NO. 2477 OF 2024

Bhagwan Anandrao Solanke
VERSUS
Venkat Anandrao Solanke And Others

Mr. S. S. Gangakhedkar, Advocate for the petitioner
Mr. V. B. Bhavthankar, Advocate for respondent Nos.1 and 2
Mr. A. M. Gaikwad, Advocate for respondent Nos.3 to 10.

CORAM : R. M. JOSHI, J.
DATE : 21st JUNE, 2024

PER COURT :-

1. This petition takes exception to the common order passed below Exhibit 121 and 121 in Spl. Civil Suit No. 1/2015 by the defendants/petitioners. An application is filed under Order 2 Rule 2 of the Code of Civil Procedure (fort short 'CPC') vide Exhibit 121 for rejection of the plaint. Similarly another application is filed raising objection under Section 11 of CPC and dismissal of suit is sought.

2. Learned counsel for the petitioner submits that the learned Trial Court has committed error in not taking into consideration plaint, written statement, pursis, copy of judgment etc from Spl. C.S. No. 7/2012 as contemplated by Order 2 Rule 2 of CPC. He drew attention of

the Court to the record indicating that these documents have already been placed on record before the Trial Court but ignored. Learned counsel for the respondent does not dispute the said fact.

3. Having regard to this factual position, there is apparent error committed by learned Trial Court in rejecting the application without taken into consideration these relevant documents which were there on record. Hence order in question cannot sustain and set aside. Application Exhibit 121 and 124 are relegated back to the learned Trial Court for decision afresh after considering the documents place on record, in accordance with law.

4. Petition stands allowed in above terms.

(R. M. JOSHI, J.)

ssp