

VRJ

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

WRIT PETITION NO.10891 OF 2023

VAIBHAV
RAMESH
JADHAV
Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2024.07.25
11:58:02 +0530

Vithabai Sadashiv Shinde & Ors. ... Petitioners

V/s.

Abhimanyu Dattatraya Patil & Ors. ... Respondents

Ms. Aditi S. Naikare i/by Ms. Rutuja Pawar for the
petitioners.

CORAM : AMIT BORKAR, J.

DATED : JULY 25, 2024

P.C.:

1. Challenge in this writ petition is to the order passed by the Trial Court rejecting an application under Order 7 Rule 11 of the Civil Procedure Code, 1908. The reason for seeking relief under Order 7 Rule 11(d) of the Civil Procedure Code, 1908 was the contention of the petitioners that the suit was barred for non-joinder of necessary party.

2. Considering the provisions of Order 7 Rule 11(d) of the Civil Procedure Code, 1908, in the facts of the case, the issue of non-joinder of necessary party needs to be decided after giving both parties opportunity to lead evidence. It is submitted that issue to that effect has already been framed by the Trial Court.

3. Therefore, by keeping question of non-joinder of necessary

party open to be agitated at the time of trial, no interference in the impugned order is called for.

4. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)