



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**918 WRIT PETITION NO. 4052 OF 2024**

**DHANRAJ LAXMAN BODKE AND OTHERS  
VERSUS  
BALAJI BHANUDAS BODKE AND OTHERS**

Mr. C. D. Biradar, Advocate for the petitioners  
Mr. V. G. Kodale, Advocate for respondent Nos.1 and 2.

**CORAM : R. M. JOSHI, J.**  
**DATE : 27<sup>th</sup> FEBRUARY, 2025**

**PER COURT :-**

1. This petition takes exception to the order passed below Exhibit 10 in Regular Civil Appeal No. 4/2019, whereby the respondents are directed to add LR's of deceased Balaji Bhanudas Bodke as appellant.
2. Vitthal Dadarao Bodke and Balaji Bhanudas Bodke filed suit being R.C.S. No. 28/2016 seeking declaration in respect of the suit property.
3. Petitioners/original defendants resisted the suit with the contention that Balaji is not the Karta of his family. Trial Court refused to grant declaration as against plaintiff No.2 Balaji on the ground that though he is entitled for declaration, since other LR's of Bhanduas are not party to the suit he is not entitled for such declaration of ownership.

4. Plaintiff No.2 being aggrieved by the said refusal preferred R.C.A. No. 4/2019 wherein application Exhibit 10 came to be filed to joint LR's of Bhanudas.

5. Heard learned counsel for both sides.

6. From the judgment of the Trial Court in R.C.S. No. 28/2016 relief is denied to plaintiff No.2 only for the reason that the suit has not been filed in the capacity of the Karta of the family. There is no refusal of the relief on the ground that otherwise plaintiff No.2 is not entitled for the relief of the declaration. In this backdrop, the First Appellate Court has rightly entertained the application for bringing other LR's of Bhanudas on record, as parties can not be denied the relief on technicality/defect which is curable in nature.

7. This Court therefore finds no perversity in the said finding and order passed by the First Appellate Court. No prejudice seems to have been caused to the petitioners by passing of the said order. Hence, petition stands dismissed.

**(R. M. JOSHI, J.)**

ssp